Kentucky Department for Medicaid Services

1915(c) Home and Community Based Services Waiver Redesign

June 2019 Public Comment Response

All Waivers

Between March 15, 2019 and April 15, 2019, the Kentucky Department for Medicaid Services (DMS) received public comment regarding proposed amendments to Kentucky's six 1915(c) Home and Community Based Services (HCBS) waiver applications.

- **Acquired Brain Injury (ABI)**
- **Acquired Brain Injury Long Term Care (ABI LTC)**
- **Home and Community Based (HCB) Waiver**
- **Model II Waiver (MIIW)**
- **Michelle P. Waiver (MPW)**
- **Supports for Community Living (SCL)**

This document provides the DMS response to stakeholder comments submitted during the public comment period. Below you will find a few definitions to help you understand the DMS response.

Ref. #	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to the Waiver
DMS assigned a number to each set of comments to help us track them.	This section identifies the type of stakeholder(s) who made the comments (providers, caregivers, etc.)	This is where you will find the public comments. DMS grouped and summarized similar comments when answering with the same response.	This is where you will find the DMS response to each set of comments.	Here DMS listed any sections in the amended 1915(c) HCBS waiver applications related to the comment and/or response.	This section lists any changes DMS plans to make to the amended 1915(c) HCBS waiver applications based on the comments received. ***Please note these are changes being made after the March 2019 release of the amended waiver applications.***

- **Additional Definitions**
  - **Phase One:** When DMS refers to “phase one” of 1915(c) HCBS waiver redesign, we are discussing the amended 1915(c) HCBS waiver applications we will submit to the Centers for Medicare and Medicaid Services (CMS) in Summer 2019. DMS expects to receive approval for these in late 2019 or early 2020.
  - **Phase Two:** DMS anticipates “phase two” of 1915(c) HCBS waiver redesign to begin in 2020, following the completion of the Rate Methodology Study. DMS may choose to assess what waiver configuration and activities are the best fit for the Commonwealth at that time.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
Eligibility and Enrollment					
EE1	Providers	**Target Population:** Commenters are concerned about how the waivers, Michelle P. specifically, are serving the intended target population: "[I'm] Unsure of why there are so many children (except Model II) that receive waiver services. The waivers are there to keep people out of nursing homes. Parents, Aunts and Uncles and the school system should be offering the supports. For disabled adults that want to stay out of nursing homes there are no other choices. To conclude my public comment, I would like to make a “big picture” comment related to target groups. When the Michelle P. Waiver was started, it was designed with adults in mind. That said, we have since learned through the MPW that there was a tremendous unmet need for children with disabilities in our state. I worry as I age and can't take care of my daughter	DMS agrees that there are opportunities to better serve the adults and children in need of waiver services. However, changes to the waiver target population are not under consideration in this amendment. Waiver eligibility may be considered in phase two of waiver redesign. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS took steps to strengthen the process for being admitted to the waivers to reduce fraud, waste and abuse and to ensure the waiver slots are allocated to the most appropriate individuals. This included clarifying the required documentation for level of care and applying emergency criteria to waiver wait lists to help the individuals most in need receive services as quickly as possible.	Appendix B-1-a. Target Groups	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		that funding may not be there due to the dollars spent on children and others that should not be on the waivers."			
EE2	Caregiver	**Proof of Income:** For employed participants, one commenter described difficulty understanding the “proof of income” requirement. The commenter expressed concern that proof was requested for current sources of employment but was also asked for proof that a former employer is no longer paying the participant. The commenter noted the challenge to keep Medicaid eligibility up to date regarding participant employment when participants change jobs frequently. The commenter requested clear instructions for reporting income and consistent feedback from Medicaid, so paperwork is appropriately submitted on the first attempt. The commenter also recommended Medicaid stay in closer communication with participants to confirm their application is complete and confirmed. The commenter also noted the challenge of call wait times and ability to talk to a Medicaid representative to resolve issues.	DMS encourages participants to seek and maintain employment in the community using available supports, whether those supports are through the waiver or other resources. There is information on how financial eligibility for the 1915(c) HCBS waivers is considered on the DMS Division of Community Alternatives (DCA) website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx, however, it is important to note the Department for Community Based Services (DCBS) determines whether an applicant is financially eligible for Medicaid. If you have questions or concerns about financial eligibility for Medicaid, you can contact DCBS at (855) 306-8959 or visit your local DCBS office. A list of DCBS offices can be found at https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. There are resources out there for waiver applicants and participants regarding financial eligibility including: Special Needs Trusts • Life Plan of Kentucky, Inc. (www.lifeplanofky.org)	Appendix B-5: Post-Eligibility Treatment of Income	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			• Special Needs Answers (https://specialneedsanswers.com/) • Special Needs Alliance (www.specialneedsalliance.org) ABLE Accounts • STABLE Kentucky (www.stablekentucky.com) • ABLE National Resource Center (http://ablenrc.org) Future Planning • The Arc (https://futureplanning.thearc.org)		
EE3	Participants, Providers, and Advocates	**Financial Eligibility:** Commenters are concerned about inconsistent financial eligibility requirements across the waivers: "There are inconsistencies across the waivers on how much income you can have and still keep the waiver. We should be encouraging people to work. Due to disabilities we also need people to help with basic needs, yet we cannot be productive people in society by working[,] yet the system is set up to force us to be poor and not work because we have to be poor to be eligible for services."	DMS encourages participants to seek and maintain employment in the community using available supports, whether those supports are through the waiver or other resources. There is information on how financial eligibility for the 1915(c) HCBS waivers is considered on the DMS Division of Community Alternatives (DCA) website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx, however, it is important to note the Department for Community Based Services (DCBS) determines whether an applicant is financially eligible for Medicaid. If you have questions or concerns about financial eligibility for Medicaid, you can contact DCBS at (855) 306-8959 or visit your	Appendix B-5: Post-Eligibility Treatment of Income	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			local DCBS office. A list of DCBS offices can be found at https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. There are resources out there for waiver applicants and participants regarding financial eligibility including: Special Needs Trusts • Life Plan of Kentucky, Inc. (www.lifeplanofky.org) • Special Needs Answers (https://specialneedsanswers.com/) • Special Needs Alliance (www.specialneedsalliance.org) ABLE Accounts • STABLE Kentucky (www.stablekentucky.com) • ABLE National Resource Center (http://ablenrc.org) Future Planning • The Arc (https://futureplanning.thearc.org)		
EE4	Provider	**Financial Eligibility:** Limitations on finances should also be revised to support Kentuckians with brain injuries. The current	DMS encourages participants to seek and maintain employment in the community using available supports, whether those supports are through the waiver or other resources.	Appendix B-5: Post-Eligibility Treatment of Income	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		$2000 savings cap and limitations on earned income via gainful employment do not allow individuals on the ABI waiver who are in residential treatment to save enough money to afford to return to independent living without compromising their regular state income. Raising or eliminating the cap would assist them in breaking the cycle of poverty that contributes to poor self-care.	Some waiver participants are required to pay There is information on how financial eligibility for the 1915(c) HCBS waivers is considered on the DMS Division of Community Alternatives (DCA) website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx, however, it is important to note the Department for Community Based Services (DCBS) determines whether an applicant is financially eligible for Medicaid. If you have questions or concerns about financial eligibility for Medicaid, you can contact DCBS at (855) 306-8959 or visit your local DCBS office. A list of DCBS offices can be found at https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. There are resources out there for waiver applicants and participants regarding financial eligibility including: Special Needs Trusts • Life Plan of Kentucky, Inc. (www.lifeplanofky.org) • Special Needs Answers (https://specialneedsanswers.com/) • Special Needs Alliance (www.specialneedsalliance.org) ABLE Accounts		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			• STABLE Kentucky (www.stablekentucky.com) • ABLE National Resource Center (http://ablenrc.org) Future Planning • The Arc (https://futureplanning.thearc.org)		
EE5	Caregivers, Provider, and Advocates	**Patient Liability**: Several commenters suggested patient liability should decrease or be eliminated.	Some waiver participants are required to pay patient liability to help cover the cost of waiver services. The amount is based on the participant's income. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS updated the way patient liability is calculated. As stated in Appendix B-5, patient liability will apply to income over 300% of FPL. DMS anticipates most waiver participants will see their patient liability reduced or eliminated. This update is the direct result of stakeholder feedback DMS received in the summer of 2018. There is information on how financial eligibility for the 1915(c) HCBS waivers is considered on the DMS Division of Community Alternatives (DCA) website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx, however, it is important to note the Department for Community Based Services (DCBS) determines whether an	Appendix B-5-b.-i. Regular Post-Eligibility Treatment of Income: SSI State.	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			applicant is financially eligible for Medicaid. If you have questions or concerns about financial eligibility for Medicaid, you can contact DCBS at (855) 306-8959 or visit your local DCBS office. A list of DCBS offices can be found at https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. There are resources out there for waiver applicants and participants regarding financial eligibility including: Special Needs Trusts • Life Plan of Kentucky, Inc. (www.lifeplanofky.org) • Special Needs Answers (https://specialneedsanswers.com/) • Special Needs Alliance (www.specialneedsalliance.org) ABLE Accounts • STABLE Kentucky (www.stablekentucky.com) • ABLE National Resource Center (http://ablenrc.org) Future Planning • The Arc (https://futureplanning.thearc.org)		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
EE6	Caregivers and Providers	**MAP 10 Form:** Two commenters expressed frustration with the MAP 10 form. The last paragraph of the form has confused providers and they may refuse to sign the form. The form also does not have a "print name" line, only a signature. Forms have been rejected by Medicaid when the printed name was not included but the form does not provide a space for the printed name.	The format of the MAP-10 form is not described in the waiver application, however, DMS has plans to improve the form to make it easier to understand and complete. Changes to the MAP-10 will be reflected in the waiver-related Kentucky Administrative Regulations.		
EE7	Caregiver	**Michelle P Eligibility:** Comment suggested revising the eligible diagnosis for the Michelle P. waiver to remove some conditions.	DMS is not considering changes to waiver target populations at this time. Waiver eligibility categories may be considered in phase two of waiver redesign.	Appendix B-1-a: Target Groups	
EE8	Caregiver	**Michelle P. Waiting List**: Three commenters expressed concern with the length of the Michelle P. waiting list and requested the number of unduplicated participants be increased.	DMS intends to make attempts to shorten the Michelle P. Waiver wait list. We are currently addressing this in two ways: 1. Through the updated wait list criteria included in the amended 1915(c) HCBS waiver applications released in March 2019. 2. Through updates to the waiver-related Kentucky Administrative Regulations designed to address management of current waiver wait lists. The goal of both these actions is to evaluate individuals based on their needs and expedite entrance to the waiver for those dealing with emergent situations.	Appendix B-3-a: Unduplicated Number of Individuals Served Appendix B-3-f: Selection of Entrants to the Waiver	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			DMS intends to request more waiver slots when lawmakers consider the state's next budget in 2020, however, receiving those slots is contingent upon approval from lawmakers and CMS.		
EE9	Providers	**Waiting List:** Two commenters "support changing waiting lists process to prioritize emergency allocations. I have seen cases where individuals needed emergency waiver services and MPW would have been adequate for their needs, but they were given an emergency SCL slot because there is no emergency allocation process for MPW. Recommend having a "reserved capacity" for emergency/urgent allocations."	It is important to note DMS uses the term "reserved capacity" when an individual receives a slot in the waiver. For CMS, the term refers to holding aside a number of slots in the waiver for a specific purpose, such as emergencies. The amended waiver application does not include any reserved capacity groups. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS proposed updated criteria for evaluating waiver applicants placed on wait lists in order to expedite entrance to the waiver for those most in need of services.	Appendix B-3-c: Reserved Waiver Capacity Appendix B-3-f: Selection of Entrants to the Waiver	
EE10	Provider	**Benefind:** One commenter expressed difficulty using Benefind and shared that their local DCBS office recommended not using Benefind for SCL participants.	DMS continues to evaluate and explore ways to improve our systems. If you need assistance applying for a 1915(c) HCBS waiver, you can receive help from: 1. Your local DCBS office. You can find a DCBS office at: https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. 2. Your local Community Mental Health Center (CMHC). You can find a CMHC at: http://dbhdid.ky.gov/cmhc/default.aspx		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			3. Your local Area Agency on Aging (AAA). You can find an AAA at: https://chfs.ky.gov/agencies/dail/Pages/aaail.aspx 4. Your local Area Development District (ADD). You can find an ADD at: https://kaedonline.org/kentucky-area-development-districts/ These links can also be found on the DMS Division of Community Alternatives website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx.		
EE11	Provider	**General Eligibility:** One commenter suggested expanding eligibility for Kentucky's HCBS waivers but did not specify a target population.	DMS is not considering changes to waiver target populations at this time. Waiver eligibility categories may be considered in phase two of waiver redesign	Appendix B-1-a: Target Groups	
EE12	Provider	**HCB Eligibility:** One commenter expressed concern that the MAP 10 and KHAT assessment process do not provide enough information to ensure the applicants in the greatest need are enrolled and receive services first. The commenter recommended a more "rigorous" assessment and waiver entry process.	In the amended 1915(c) HCBS waiver applications released in March 2019, DMS has taken steps to improve policies and procedures related to admitting those who need services quickly.	Appendix B-6-d: Level of Care Criteria Appendix B-6-e: Level of Care Instrument(s) Appendix sB-6-f: Process for Level of Care	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
				Evaluation / Reevaluation	
EE13	Caregivers and Providers	**Autism:** Commenters recommended Autism be a standalone waiver or a designated target population within SCL and/or MPW	DMS is aware of the great need for Autism-specific services. DMS will consider additional waivers or target populations in phase two of waiver redesign	Appendix B-1-a: Target Groups	
EE14	Advocate	**Slots:** "P&A understands that category of need in addition to date of application aids in the management of waiting lists for home and community based waivers. DMS and Kentucky, however, should remember that the U.S. Supreme Court in Olmstead vs. L.C., 527 U.S. 581 (1999) said that waiting lists must move at a reasonable pace. The current biennium budget offers almost no additional waiver slots, thus our waiting lists continue to grow."	DMS intends to make attempts to shorten waiver wait lists. We are currently addressing this in two ways: 1. Through the updated wait list criteria included in the amended 1915(c) HCBS waivers released in March 2019. 2. Through updates to the waiver-related Kentucky Administrative Regulations designed to address management of current waiver wait lists. The goal of both these actions is to evaluate individuals based on their needs and expedite entrance to the waiver for those dealing with emergent situations. DMS intends to request more waiver slots when lawmakers consider the state's next budget in 2020, however, receiving those slots is contingent upon approval from lawmakers and CMS.	Appendix B-3-a: Unduplicated Number of Participants Appendix B-3-f: Selection of Entrants to the Waiver	
EE15	Provider	**Slots:** One commenter states: "Please improve the	DMS is not asked to discuss letters to waiver participants in the 1915(c) HCBS waiver applications, however, DMS is aware of the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		computer-generated letters that are sent to potential ABI-A, ABI-LTC participants regarding their "slot", the need to have a case management agency, the need to have a CM do an assessment, when the 60-day clock starts, etc. Also, please post any denial letters on MWMA (they are currently only mailed to individuals- sometimes the CMs don't even get them in the mail!)."	need to improve mailed information and is internally vetting opportunities to improve participant mailings. In addition, DMS is working to generate all waiver-related communications and make them available in the Medicaid Waiver Management Application (MWMA).		
EE16	Caregiver	**Slot Retention:** One commenter states: "It states on page 57 that if an individual is determined NOT to be financially eligible, that person has the right to appeal that decision. However, the slot that the person had prior to that determination is then forfeited. If the individual wins the appeal, then there is no slot for that person to use. I suggest the slot not be forfeited until the appeal process is completed."	DMS thanks the commenter for voicing their concerns. Under current practice, DMS does hold an individual's slot during the financial eligibility appeals process. This practice will not change in the amended 1915(c) HCBS waiver applications.		
EE17	Advocate	**Inpatient and Retainer:** One commenter states: "The concern is that the individual is not able to meet all of the re-enrollment criteria (i.e., assessment, in-home visit; accessing and receiving waiver services) while they are accessing non-community-based Medicaid services. Thus, they lose their waiver slot if they are receiving hospital, psychiatric hospital, or Psychiatric Residential Treatment Facility (PRTF) services during the re-enrollment period. We became aware of this concern when a parent chose not to admit their child to receive medically necessary PRTF services because the parent was	DMS is engaged in continual process improvement related to assessments. We are currently re-evaluating the timeframe for slot retention during in-patient treatment that prevents access to waiver services.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		told that the child would lose their Michelle P. waiver services if their child was admitted to the PRTF and that their child would have to go back on the Michelle P. waiver services wait list, once their child was discharged from the PRTF, because the child was being placed during the re-enrollment period (9-1-18). In short, we would ask that the waiver re-enrollment processes for these individuals be re-designed to prevent them from losing their waiver services when they are hospitalized or in a residential facility during the waiver's re-enrollment period. This will ensure greater continuity of care for the individual and ensure individuals receive access to needed physical and mental health services when these services are medically necessary. It is our understanding the Cabinet already has in place a "resume services review" that a case manager can request to ensure waiver services continue when appropriate. However, that practice is not currently protecting those in non-community settings during the re-enrollment period."			
EE18	Participants and Caregivers	**Marriage:** Two participants and one caregiver believe it would be difficult for someone on the waiver to be married due to income limits.	Financial eligibility for Medicaid and 1915(c) HCBS waiver programs is income-based. Applicants with a spouse or family members who live in the community should still be able to qualify for waiver services as there are different income limits for those applicants. There is information on how financial eligibility for the 1915(c) HCBS waivers is	Appendix B-5 Post-Eligibility Treatment of Income Appendix B-5-a. Use of Spousal	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			considered on the DMS Division of Community Alternatives (DCA) website at https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx, however, it is important to note the Department for Community Based Services (DCBS) determines whether an applicant is financially eligible for Medicaid. If you have questions or concerns about financial eligibility for Medicaid, you can contact DCBS at (855) 306-8959 or visit your local DCBS office. A list of DCBS offices can be found at https://prdweb.chfs.ky.gov/Office_Phone/index.aspx. There are resources out there for waiver applicants and participants regarding financial eligibility including: Special Needs Trusts • Life Plan of Kentucky, Inc. (www.lifeplanofky.org) • Special Needs Answers (https://specialneedsanswers.com/) • Special Needs Alliance (www.specialneedsalliance.org) ABLE Accounts • STABLE Kentucky (www.stablekentucky.com) • ABLE National Resource Center (http://ablenrc.org)	Impoverishment Rules	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			Future Planning • The Arc (https://futureplanning.thearc.org)		
EE19	Provider	**Good Cause:** One commenter recommended allowing a 60-day extension for good cause to allow individuals to avoid losing their waiver slot when there is a delay in initiating services or returning to services. Currently there are several system barriers that can delay service initiation.	DMS agrees it is appropriate to allow an extension for good cause. In the amended 1915(c) HCBS waivers released in March 2019, DMS added a sixty (60) day extension for good cause. This policy was previously outlined in some waivers but has now been extended to all. The update means waiver participants have sixty (60) days to initiate services and can receive a sixty (60) day extension.	Appendix E-1-l: Voluntary Termination of Participant Direction Appendix E-1-m: Involuntary Termination of Participant Direction	
EE20	Provider	**Demonstration of Need:** Suggest that when the regulation addresses the need for two services that it excludes residential services.	DMS will analyze waiver participation and service utilization following the implementation of phase one updates. DMS will use this information to determine if further updates are needed in phase two.	Appendix B-6-a: reasonable indication of need for services	
Individual Budgeting					
IB1	Caregivers and Providers	**Michelle P. Unit v. Monetary Limit:** Several commenters expressed concern that a unit per week approach to Michelle P. does not provide enough flexibility to meet participant needs from week to week. While some weeks' authorized units go unused, in other weeks, participants quickly go	DMS is working on continual process improvement related to flexibility of services for 1915(c) HCBS waiver participants as their situation and needs change. DMS made several updates in the amended 1915(c) HCBS waiver applications released in March 2019 with the goal of ensuring person-	Appendix D-1-c. Supporting the Participant in Service Plan Development; Appendix D-1-d. Service Plan	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		over their max allotment. One commenter suggested changing from units to a monetary amount that can be spent over time to meet the changing needs of participants. "The amendments to the MPW do not appear to clarify the budget confusion that has arisen over the past year. What was previously understood to be a dollar amount budget was suddenly changed to a rigidly-governed unit system about a year ago, however a dollar budget cap was still enforced." I support the need for an individualized budgeting method (see above) and in the case of children living at home with their parents, budgeting based on actual support needs exclusive of what a parent would ordinarily provide.	centered service plans (PCSPs) are tailored to the needs of each participant. These updates include: 1. Moving service authorization from a third-party, known as a Quality Improvement Organization, to case managers. Eliminating the third party approval process will ensure participants are receiving services based on their individual needs, that those services begin as quickly as possible and will create an easier and quicker process for updating person-centered service plans (PCSPs) as needs change. 2. Changing the way services are requested. Service requests will be made in weekly units, rather than monthly, however, the amount of services received still cannot exceed established limits. 3. Enhancing training and support for case managers, including a dedicated help desk and reference guides. This will empower case managers to conduct a more thorough person-centered planning process resulting in PCSPs that are better tailored to a waiver participant's individual needs. 4. Improving training for assessors. DMS is in the process of developing additional training and education for our assessors to be certain the assessments the case managers use to help develop the PCSP give a full picture of the waiver participant's needs.	Development Process; Appendix C-1-a. Waiver Services Summary (Service Limitations)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			As phase one is implemented, DMS will monitor these changes to ensure they are effective in creating more flexibility for waiver participants. Additionally, DMS will continue to investigate what else we can do to increase service flexibility for participants.		
IB2	Provider	**Flexible Budget - School Year Service Budget:** Hours allotted for school-aged consumers during the school year seem to be excessive.	DMS agrees that a participant's needs change from week to week. Case managers will be responsible for authorizing some services and may adjust the PCSP as needed within the service limits. Updates made to the amended 1915(c) HCBS waiver applications released in March 2019 focus on using assessed needs to ensure participants receive the amount of services appropriate for their needs. For example, if an assessment shows a Michelle P. Waiver participant needs more services during the summer when school is not in session, case managers will be responsible to adjust services accordingly both during and outside of the school year. Additionally, service requests will also be made in weekly units, rather than monthly, to allow flexibility and ensure the right amount of services are being approved. Again, all service requests must adhere to the established limits. DMS does not intend to change the 40-hour service limit in MPW at this time. DMS will	Appendix D-1-c. Supporting the Participant in Service Plan Development Appendix D-1-d. Service Plan Development Process Appendix C-1-a. Waiver Services Summary (Service Limitation) Appendix E-1-b: Participant Direction Opportunity Appendix E-2-b Participant Budget Authority	DMS will revise waiver language to include the list of services DMS must approve.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			determine how to adjust service limits in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All limit changes will be subject to waiver budget neutrality requirements.		
IB3	Caregiver	**Flexible Budget:** Flexibility of budget usage is not only helpful but even crucial for effectiveness in some situations, as opposed to a rigid weekly allotment. Different seasons of the year necessitate different needs for participants in terms of service and support, and it seems that a participant and his/her representative would be the best authority on how or when the budget would best be put to use. I understand that safeguards would need to be in place to prevent potential problems, but that seems like it could be a straightforward process.	DMS agrees that a participant's needs change from week to week. Case managers will be responsible for authorizing some services and may adjust the PCSP as needed within the service limits. Updates made to the amended 1915(c) HCBS waiver applications released in March 2019 focus on using assessed need to ensure participants receive the amount of services appropriate for their needs. For example, if an assessment shows a Michelle P. Waiver participant needs more services during the summer when school is not in session, case managers will be responsible to adjust services accordingly both during and outside of the school year. Additionally, service requests will also be made in weekly units, rather than monthly, to allow flexibility and ensure the right amount of services are being approved. Again, all service requests must adhere to the established limits. DMS does not intend to change the 40-hour service limit in MPW at this time. DMS will determine how to adjust service limits in phase two of waiver redesign following the	Appendix D-1-c. Supporting the Participant in Service Plan Development; Appendix D-1-d. Service Plan Development Process; Appendix C-1-a. Waiver Services Summary Appendix E-1-b: Participant Direction Opportunity Appendix E-2-b participant budget authority	DMS will revise waiver language to include the list of services DMS must approve.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			completion of the 1915(c) HCBS Rate Methodology Study. All limit changes will be subject to waiver budget neutrality requirements.		
IB4	Participant and Providers	**Flexible Budgeting:** 40 hours of service per week is unrealistic for many waiver participants that live independently in the community. It leads to neglect when participants live in the community outside of a family household. It would be nice for the hours to roll over. Some weeks I need more services than other weeks due to my work life as well as health. It doesn't allow me to be flexible. I now have to think about if I have the "time" available to use. This leads to a decline in my mental health and also affects my staff.	DMS agrees that a participant's needs change from week to week. Case managers will be responsible for authorizing some services and may adjust the PCSP as needed within the service limits. Updates made to the amended 1915(c) HCBS waiver applications released in March 2019 focus on using assessed need to ensure participants receive the amount of services appropriate for their needs. For example, if an assessment shows a Michelle P. Waiver participant needs more services during the summer when school is not in session, case managers will be responsible to adjust services accordingly both during and outside of the school year. Additionally, service requests will also be made in weekly units, rather than monthly, to allow flexibility and ensure the right amount of services are being approved. Again, all service requests must adhere to the established limits. DMS does not intend to change the 40-hour service limit in MPW at this time. DMS will determine how to adjust service limits in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All limit changes will be	Appendix D-1-c. Supporting the Participant in Service Plan Development Appendix D-1-d. Service Plan Development Process Appendix C-1-a. Waiver Services Summary (Service Limitation) Appendix E-1-b: Participant Direction Opportunity Appendix E-2-b Participant Budget Authority	DMS will revise waiver language to include the list of services DMS must approve.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			subject to waiver budget neutrality requirements.		
Stakeholder Engagement and Information Sharing					
SE1	Provider	**Public Comment Release:** Commenters recommend providing more documentation and webinars to explain the waiver amendments "in plain English". One commenter stated: "The webinars are an important resource for participants, caregivers and providers to respond to the waiver amendments."	In preparation for the public comment period, DMS posted one waiver amendment summary and one waiver webinar summarizing the key waiver amendment proposals to the DMS Division of Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx). DMS understands waiver language can be difficult to understand and agrees that stakeholders should have audible and published format options to accommodate preferences. In the future, DMS intends to continue to offer both webinars and publications in order give stakeholders information in the format they prefer. Additionally, DMS is planning a statewide town hall tour in June 2019. Stakeholders will have the opportunity to hear about waiver updates directly through in-person interaction with DMS staff and ask questions. The town halls will include a “meet and greet” session before the scheduled start time for participants who have questions specific to their situation. You can find more information about the town hall tour at:		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf. DMS intends to continue stakeholder engagement efforts moving forward using the NEW method. The NEW method involves: **N**otifying stakeholders of changes in a timely manner, including proposed changes that are not yet finalized. **E**ducating stakeholders on why a policy is necessary, including how federal requirements and other states' best practices influence changes. **W**raparound where DMS follows up to confirm stakeholders understand the information. While the official public comment period is over, DMS is always interested in hearing from our stakeholders. If you have question or comment, please email us at medicaidpubliccomment@ky.gov, call us at (502) 564-7540, or send us a letter at: DMS Division of Community Alternatives 275 E. Main St. 6W-B Frankfort, KY 40621		
SE2	Commenter Type Not Specified	**Public Comment Release:** Commenters requested additional time to review and respond to the waiver amendments. One commenter stated:	In this case, DMS followed Centers for Medicare and Medicaid Services (CMS) guidance to "provide at least a 30-day public notice and comment period and be completed prior to submission of the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		"This information is extensive and not easy to for everyone to understand. The summaries help, but many of us prefer to read the actual applications and have the opportunity to consider, compare, discuss with other stakeholders, and thoughtfully form our comments. In addition to providing an announcement, it would be very beneficial to offset the two time periods: release the information and then begin the public comment period a couple of weeks after."	proposed change to CMS". Per CMS, public comment cannot begin until the 1915(c) HCBS waiver applications are released to the public. In the future, DMS will consider extending the public comment period beyond 30 days. While the official public comment period is over, DMS is always interested in hearing from our stakeholders. If you have question or comment, please email us at medicaidpubliccomment@ky.gov, call us at (502) 564-7540, or send us a letter at: DMS Division of Community Alternatives 275 E. Main St. 6W-B Frankfort, KY 40621		
SE3	Commenter Type Not Specified	**Listserv:** Many stakeholders are not on the Medicaid Public Comment email list and so the information is trickled down to them through their agency/case manager/support broker. This could mean a drastically shortened public comment period for those individuals.	DMS is actively trying to grow its listserv outreach. If you are interested in receiving emails directly from DMS, please enroll in our listserv by emailing MedicaidPublicComment@ky.gov. DMS is continuously looking for the best methods of communicating with our stakeholders and updating our practices. For example, we recently went to our Home and Community Based Services Advisory Panel (HCBS-AP), made up of providers, advocates, waiver participants and their families, to ask their opinion on the best way to share information. DMS is also looking at		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			ways to better engage case managers and service providers in helping waiver participants access information as they have more frequent contact with those individuals. In addition to email, we have begun a push to communicate via social media as well. To see our posts, you can follow the Cabinet for Health and Family Services (CHFS) on Facebook at https://www.facebook.com/kychfs/ and on Twitter at https://twitter.com/CHFSKy.		
SE4	Caregiver	**Implementation Communications:** Commenters requested additional information on how the policies will be implemented and what to expect in the next year.	Additional information about upcoming changes and implementation plans will be released to the public over the next several months. DMS recommends stakeholders attend one of seven town halls scheduled throughout the Commonwealth in June 2019. The dates, times and locations can found in the town hall announcement DMS released on May 17, 2019. https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf The town halls will include a presentation highlighting updates to the 1915(c) HCBS waiver programs and how those will affect participants and their caregivers. The presentation will include time for individuals to ask questions about the updates. At the suggestion of our Home and Community Based Services Advisory Panel (HCBS-AP), the town halls will also include a meet and greet session one hour prior to the scheduled		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			start time. This is an opportunity for waiver participants and their families to meet with Cabinet for Health and Family Services (CHFS) staff. We look forward to meeting with stakeholders in-person. DMS will share information about upcoming changes and implementation plans in a number of other ways as well. We intend to develop one-page summaries to explain the updates to stakeholders. Additionally, we will hold webinars for those individuals who prefer to receive information in an audio/visual format. Updates will also be posted to the DMS Division of Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx) and to social media via the CHFS Facebook page at https://www.facebook.com/kychfs/ and on Twitter at https://twitter.com/CHFSKy. DMS strongly encourages all stakeholders to enroll in our email list by emailing medicaidpubliccomment@ky.gov as well so they do not miss any updates.		
SE5	Provider	**Implementation Communications:** One commenter referenced the communication and implementation obstacles that occurred when HCB 2 was implemented. The commenter was fearful that these reforms will have a long-lasting negative impact, especially on providers, if not implemented properly.	DMS hopes to improve communications from the HCB2 implementation and that any changes implemented through this waiver amendment process will include an exhaustive communications plan to prepare participants and providers. Current communications plans include statewide town halls in June 2019 to discuss updates with stakeholders in-person, one-page		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			documents designed to provide a summary of updates and webinars to accommodate those who prefer to hear about updates in an audio/visual format. DMS has, and will continue to, involve the Home and Community Based Services Advisory Panel (HCBS-AP) in developing a wavier communications plan and invites the public to email any suggestions on how DMS can better communicate with the public to MedicaidPublicComment@ky.gov. In addition to communicating with stakeholders, DMS, the Department for Aging and Independent Living (DAIL), and the Department for Behavioral Health, Development and Intellectual Disabilities (DBHDID) understand the importance of training when it comes to providing a smooth transition to updated 1915(c) HCBS waiver programs. DMS is currently working to improve training for providers and case managers. One of those improvements includes moving to a DMS-approved training platform. This will allow DMS or designee to create custom trainings for providers that are easily accessible and reduce or eliminate the need for providers to develop their own waiver trainings for employees.		
SE6	Provider	**Administrative Hearing Communications:** One commenter requested additional education materials specifically regarding administrative hearing rights. The commenter requested:	A participant's right to an administrative hearing is paramount to a well-functioning HCBS system. A participant should receive information and resources regarding their administrative hearing rights. Their case	Appendix F: Participant Rights	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		"Please form a document, or manual for the appeals process regarding 1915(c) home and community based waivers. There is very little user-friendly information about the rights that the participant has in an administrative hearing. Participant's should have the right to know their rights in an administrative hearing and should not have to dig through regulations."	manager is also a resource for further administrative hearing questions, along with representatives from the Office of the Ombudsman, Kentucky Protection and Advocacy, and DMS. DMS is currently working to create publications and/or update existing publications to make this information more readily available to waiver participants. These materials include a 1915(c) HCBS waiver welcome packet, participant guide, and case manager handbook. DMS is also taking a closer look at the letters it sends regarding administrative hearings to improve upon readability and ease of understanding. These updates are intended to provide participants and their representatives the most accurate and up to date information regarding the 1915(c) HCBS waiver programs, including their rights to an administrative hearing. Additional information regarding these updates will be released later this year.		
SE7	Commenter Type Not Specified	**Evidence of Stakeholder Engagement**: A commenter expressed concern that there is not enough evidence from the state that stakeholder comments are seriously considered.	DMS reads, categorizes, and responds to all comments on a summary level. DMS greatly appreciates stakeholders' enthusiasm and involvement in the public comment process and has made updates based on stakeholder feedback. Examples of updates made in direct response to stakeholder feedback include: 1. Updates to patient liability in the amended 1915(c) HCBS waiver applications released in March 2019. In the summer of 2018, DMS	Appendix B-5: Post-Eligibility Treatment of Income Appendix C-2-c. Provision of Personal Care or Similar Services by Legally	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			heard from stakeholders who were concerned about their patient liability amounts. As a result, DMS did a financial analysis and determined it could change income requirements for waiver services thus reducing or eliminating patient liability for most waiver participants. This change is reflected in Appendix B-5: Post-Eligibility Treatment of Income 2. Clarifications to the process for approving Legally Responsible Individuals as Participant-Directed Services (PDS) employees. These updates were made in the amended 1915(c) HCBS waiver applications released in March 2019. The updates are reflected in C-2-c. Provision of Personal Care or Similar Services by Legally Responsible Individuals 3. The addition of a meet and greet to our summer 2019 Town Hall events. This suggestion came directly from our Home and Community Based Services Advisory Panel (HCBS-AP). DMS felt it could be very beneficial to our waiver participants and decided to adopt the recommendation. DMS will continue to collect comments and questions through the public comment email box (MedicaidPublicComment@ky.gov) and encourages stakeholders to submit comments and questions at any time. These questions will be responded to through our Frequently Asked Questions (FAQ) document available on the Division of	Responsible Individuals	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx) or through interaction with DMS staff. DMS will continue to collect stakeholder feedback from the HCBS-AP and topic-specific subpanels throughout the waiver redesign process as well.		
SE8	Caregiver	**Accessibility:** A commenter recommended mailing the amendments or proposed changes to each shareholder or "covered with them in person, with explanations given as needed, through our support brokers, only after the support brokers were well versed in what they will actually mean for us. No one really knows what the proposals will mean for individual shareholders, and that sense of confusion undermines our ability to trust the people who are writing these changes. We are, once again, left feeling like we are not really part of the process, and we don't really matter."	DMS would like to communicate directly to participants in their communities via mailings and in-person meetings however, these activities are administratively burdensome and, at times, cost prohibitive. Online communications, emails, and webinars are some of the most effective methods currently at DMS' disposal given its limited resources. DMS will share information about upcoming changes and implementation plans in a number of ways. Stakeholders can learn about updates in-person during our town halls being held statewide in June 2019. You can find more information about the town halls here: https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf. We intend to develop one-page summaries to explain the updates to stakeholders. Additionally, we will hold webinars for those individuals who prefer to receive information in an audio/visual format. Updates will also be posted to the DMS Division of Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx) and to social media via the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			CHFS Facebook page at https://www.facebook.com/kychfs/ and on Twitter at https://twitter.com/CHFSKy. DMS strongly encourages all stakeholders to enroll in our email list by emailing medicaidpubliccomment@ky.gov as well so they do not miss any updates. If you prefer to receive information via paper copies, please call the DMS Division of Community Alternatives at (502) 564-7540 or email us at medicaidpubliccomment@ky.gov.		
SE9	Caregiver	**Providing Resources:** One commenter was frustrated that DMS did not provide clearer citations and page numbers when referencing large documents such as the CMS 1915(c) waiver technical guidelines. The commenter was further frustrated that active links to these kinds of documents was not available in DMS communications.	DMS continues to make efforts to improve its communications. DMS is committed to providing clear, direct information and references in different formats that are readily available.		
Waiver Reconfiguration					
WR1	Commenter Type Not Specified	**Continue Current Waiver:** A commenter encouraged the State to continue offering the Michelle P. waiver.	There are no plans to eliminate the Michelle P. waiver (MPW) at this time.		
WR2	Participant and Advocate	**Transition Waiver - MFP:** Two commenters suggested the State develop a new “model” to transition individuals out of institutional facilities into the community. They	The Centers for Medicare and Medicaid Services (CMS) has extended the Money Follows the Person (MFP) grant and Kentucky will continue to transition individuals out of institutions through that	Appendix B-3-c: Reserved Waiver Capacity	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		recommended continuing the Money Follows the Person format through waiver.	program until the end of 2019. DMS acknowledges the benefit the MFP program has had on participants and recognizes the continued need for such programs. DMS currently offers a transition service through the Supports for Community Living (SCL) waiver and will evaluate the need to include transition-type services in more of our waivers. Based on our findings, this recommendation may be considered in phase two of redesign.	Appendix C-1: Participant Services	
WR3	Caregiver	**Waiver Reconfiguration:** Commenters appeared to believe waiver redesign would eliminate waivers or the PDS option.	DMS does not propose eliminating any current 1915(c) HCBS waivers or the PDS service delivery option through this amendment.	Appendix E: Participant Direction of Services	
Appeals and Grievances					
AG1	Provider	**Administrative Hearing Communications:** Commenters expressed frustration with DMS communications regarding the appeals and grievance process, particularly the letters generated when a denial occurs. A commenter also requested a letter be sent every time DMS denies a waiver application or reduces or denies a waiver service.	DMS is currently reviewing its computer-generated letter language used in the appeals process, including who receives copies of these letters. These materials will be updated to reflect new grievance and reconsideration opportunities. According to the amended 1915(c) HCBS waiver applications, waiver applicants, participants, and/or their authorized representatives have the right to appeal the following adverse actions: 1. Level of Care (LOC) Denial	Appendix F-1: Procedures for Offering Opportunity to Request a Fair Hearing	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			2. Suspension, reduction, or termination of services 3. Denial of PDS employee exemption Letters regarding adverse actions that can be appealed should include information on the reconsideration process and the right to an administrative hearing. DMS will attempt to further clarify this language in any letter revisions.		
AG2	Caregiver	**Continuation of Services: Appeals and Grievances** One commenter requested the following statement in Appendix F be clarified: “Services will continue as previously indicated in the person-centered service plan (PCSP) prior to the adverse action if the request for an administrative hearing is made within ten (10) calendar days.” The commenter suggested the statement be revised to the following language: “Services will continue as previously indicated in the person-centered service plan (PCSP) prior to the adverse action if the request for an administrative hearing is mad within ten (10) calendar days from receipt of notification of action.” The reason for the commenter's request was to reflect the fact that the letter may not reach the	DMS is evaluating the best way to notify 1915(c) HCBS waiver participants of adverse actions and allow them to respond in a timelier manner.	Appendix F-1: Procedures for Offering Opportunity to Request a Fair Hearing	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		participant with enough time left in the 10-day period to reasonably decide and respond to DMS. For example, a letter arrives six days into the 10-day period, leaving only 4 days to decide and respond.			
Other					
O1	Caregiver	**Suspected Fraud:** One commenter suspects their Community Living Support and Supported Employment providers are billing for forty hours per week when they are providing less than that to the participant.	Any suspected cases of Medicaid fraud should be reported to the Office of the Inspector General at 1-800-372-2970.		
O2	Caregiver	**Implementation:** Commenters are concerned the implementation process for these changes may cause harm to the HCBS system and participants if done too quickly without enough education. The commenter cited the HCB 2 regulations and Michelle P. waiver budget structure as recent implementation efforts that put the HCBS system at risk.	DMS hopes to improve communications from the HCB2 implementation and that any changes implemented through this waiver amendment process will include an exhaustive communications plan to prepare participants and providers. Current communications plans include statewide town halls in June 2019 (https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf) to discuss updates with stakeholders in-person, one-page documents designed to provide a summary of updates and webinars to accommodate those who prefer to hear about updates in an audio/visual format. DMS has, and will continue to, involve the Home and Community Based Services Advisory Panel (HCBS-AP) in developing a wavier communications plan and invites the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			public to email any suggestions on how DMS can better communicate with the public to MedicaidPublicComment@ky.gov. In addition to communicating with stakeholders, DMS, the Department for Aging and Independent Living (DAIL), and the Department for Behavioral Health, Development and Intellectual Disabilities (DBHDID) understand the importance of training when it comes to providing a smooth transition to updated 1915(c) HCBS waiver programs. DMS is currently working to improve training for providers and case managers. One of those improvements includes moving to a DMS-approved training platform. This will allow DMS or designee to create custom trainings for providers that are easily accessible and reduce or eliminate the need for providers to develop their own waiver trainings for employees.		
O3	Providers and Advocate	**Provider Tax:** Several commenters requested the provider tax be removed from SCL provided.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements.		
O4	Provider	**Discharge Planning:** Commenters are concerned with the waiver	DMS is committed to providing care in the least restrictive environment possible. DMS offers residential and HCBS services through	Appendix D: Participant-Centered	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		discharge planning processes in the ABI community. Commenters requested the need for a 30-day discharge letter to participants, so they may decide outside of the residential facility. Another commenter encouraged DMS to provide incentives to move ABI survivors through the care continuum out of residential facilities and into the community	the ABI-Acute and ABI-LTC waivers and supports the participant's choice to receive care in the residential setting or home of their choice. The case manager or PDCM should assist a participant in obtaining a needed service outside those available by the ABI waiver. The expectations for case managers and PDCMs are laid out in Appendix D: Participant-Centered Service Planning and Delivery and in the case management and/or PDCM definitions found in Appendix C-1: Participant Services.	Service Planning and Delivery	
O5	Provider and Caregiver	**Provider-to-Provider Communication:** One commenter requested DMS mandate provider response to case management requests.	DMS agrees that providers and case managers should have open communication and be responsive to case manager requests. DMS is looking for ways to enhance and increase communication between providers and case managers. This includes bringing this issue to our Case Management Advisory Subpanel for consideration.		
O6	Participant, Advocate, and Providers	**Social Delivery Model:** Commenters believe the 1915(c) waiver programs still adhere to a medical model and would like the programs to evolve into a social model of care.	DMS is continually working to improve the person-centered philosophy used in the waivers including the use of person-centered thinking, planning, and systems. DMS will support waiver participants in both social and medical needs through the person-centered planning process. This includes educating case managers on available resources and encouraging them to assist participants in seeking supports not only through the 1915(c) HCBS waiver programs, but through	Appendix D-1-d. Service Plan Development Process	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			Kentucky's State Medicaid Program and the community as well. Policy options that move Kentucky's programs towards a more social model will be considered in phase two of waiver redesign.		
O7	Participant	**Provider Qualifications**: One commenter requested DMS review and adjust provider qualifications, including supervisors, so more individuals will be able to provide care and grow the provider network.	The waiver amendments include changes to provider qualifications intended to grow provider networks. DMS is also currently reviewing its 1915(c) HCBS waiver provider regulations to identify opportunities to grow provider networks while still ensuring providers are qualified to provide high quality care to participants.	Appendix C-1/C-3 Provider Specifications for Service	
O8	Participant	**Managed Care:** One commenter is concerned the 1915(c) waivers would eventually become part of the managed care system.	The 1915(c) HCBS waiver amendments do not propose HCBS waiver services be delivered through a managed care system.	Appendix I: Financial Accountability	
O9	Provider	**MWMA Access and Functionality:** A commenter requested the following updates to the MWMA system: "We would like to see that there be some sort of intermediate status created in the MWMA system where an agency that an individual is planning on transferring to could gain preemptive access to their case leading up to the official transfer. That way, they can read over existing documentation in MWMA to get a better idea about what needs to be included in the Person Centered Plan. This should	DMS continues to work with our partners to improve the system's functionality while still respecting the privacy of participant's information. DMS will allow MWMA access for ancillary service providers as allowable by the Health Information Portability and Accountability Act (HIPAA). The case management help desk is still in development. DMS is working to prepare the help desk to address issues such as these.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		also help in situations where folks are transitioning from one waiver to another to determine if there is already needed available documentation in that system that could be utilized for the transition. It could help reduce the burden on PDS CMs to have to request duplicate documentation from families if they already have access to things in MWMA. We also think it would be helpful to have some sort of MWMA PDS Content Expert either with the proposed CM Help Desk or within the oversight bodies (DBHDID, DAIL) to be available to help PDS CMs navigate the issues they encounter. Currently, all of the training for MWMA "lives" with the TRIS system and manuals and it is rare to find someone at the Cabinet level who has a really strong understanding of how MWMA works and how the workflows can be complicated. Getting issues resolved often takes phone calls to the Help Desk, Carewise, HP, billing departments for various agencies, and involvement from Cabinet staff. It is a slow, frustrating process that has so much room for improvement. Having a central Content Expert in at least one of those agencies would help agencies have at least one point person to hopefully limit the number of contacts PDS CMs have to make to get things fixed in a timely fashion. In regards to the MWMA system, one of the things we would like to advocate for moving forward, is to create a specialized role with unique access for the folks that provide regional IDD crisis services. These services are provided on a contractual basis by the Community Mental Health Centers.			

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Statewide, this would be needed for approximately 50-60 staff. We would suggest that folks with that role be able to have at minimum “read only” access to all waiver cases in the MWMA system, and perhaps there be a way that they can submit a request to the HelpDesk or maybe to the Cabinet level to get “read/write” access to cases as needed. Our experience is that MWMA access problems can unnecessarily delay actions being taken (such as completing emergency waiver applications) because the person is enrolled with another provider who is unresponsive to requests from the crisis team. When individuals present in crisis, time is of the essence, so being able to move forward in a timely fashion is key to crisis staff being able to get individuals stabilized and out of crisis. Being able to move forward timely also helps preserve the state general fund dollars used to fund crisis supports because waiver funding is able to step in and become the payer source for individuals served. Additionally, being able to get a snapshot of existing service documentation in the MWMA system could give crisis staff a better idea of the true history of services in the event that the IDT is not able to provide accurate information (for example, in situations where there has been turnover, etc.)."			
Participant Safeguards					
PS1	Caregiver	**Safety - PDS:** A commenter is concerned about the safety of participants in the PDS system.	If anyone is concerned about a PDS participant’s general safety, the individual should report any concerns to the participant-directed case manager (PDCM). If the	Appendix G-1-b. State Critical Event or Incident	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			concern involves abuse, neglect, or exploitation, the individual should contact Adult Protective Services or Child Protective Services at 1-877-597-2331 immediately. If the concern involves criminal activity, the individual should contact law enforcement immediately.	Reporting Requirements	
PS2	Providers	**Critical Incident Reporting:** Several commenters stated the 5-day window for providers to investigate a critical incident was insufficient. Commenters recommend increasing the timeframe to 10 business days.	In response to stakeholder feedback, DMS will update the window for providers to investigate a critical incident from five (5) business days to ten (10) business days.	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	Change critical incident investigation timeframe from five (5) business days to ten (10) business days.
PS3	Caregiver and Providers	**Critical Incident Reporting:** Three commenters recommend DMS make critical incident reporting easier through online submission via a website or email.	In Appendix G of the amended 1915(c) HCBS waiver applications released in March 2019, DMS indicates critical incident reports should be entered via the DMS-approved system. DMS is working to implement an online reporting process using the Medicaid Waiver Management Application (MWMA). DMS hopes to begin using this solution by the end of 2019. Beginning June 7, 2019, DMS will require providers to use updated incident reporting materials and processes. This interim solution is designed to address deficiencies identified in Navigant's assessment report of the 1915(c) HCBS waiver programs. The report was released on September 20, 2018 and is available online:	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			https://chfs.ky.gov/agencies/dms/dca/Documents/kyhcbsassessmentfinalreport.pdf As part of this interim solution, providers will be required to submit reports via email. Providers can see the updated materials, instruction guide, and Critical Incident FAQ on the DMS Division of Community Alternatives website: https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx.		
PS4	Provider	**Critical Incident Reporting:** A commenter recommends the DMS timeframe to submit a critical incident be within 8 business hours.	Thank you for the comment. In the amended 1915(c) HCBS waiver applications released in March 2019, timeframes for reporting a critical incident to DMS were set as follows: • The same day if the critical incident occurs or is discovered during regular business hours. • The next business day if the critical incident occurs or is discovered outside of regular business. DMS defines regular business hours at 8:00AM to 4:30PM.	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	
PS5	Providers	**Critical Incident Reporting:** Several commenters interpret the waiver amendment as putting sole responsibility for incident reporting on the case manager.	All waiver providers (direct service providers, case managers, and PDCMs) are responsible for reporting critical incidents. If the incident occurs at a direct service providers' location, the direct service provider is responsible for reporting the critical	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Commenters recommend DMS require all providers to report critical incidents.	incident to the regulating agency. If the incident does not occur at a direct service providers' location, the first person (direct service provider, case manager, or support broker/service advisor) who witnessed or discovered the incident is required to report the critical incident to the regulating agency. Beginning June 7, 2019, DMS will require providers to use updated incident reporting materials and processes. This interim solution is designed to address deficiencies identified in Navigant's assessment report of the 1915(c) HCBS waiver programs. The report was released on September 20, 2019 and is available online: https://chfs.ky.gov/agencies/dms/dca/Documents/kyhcbsassessmentfinalreport.pdf. Providers can see the updated materials, instruction guide, and Critical Incident FAQ on the DMS Division of Community Alternatives website: https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx.		
PS6	Advocate	**Critical Incident System:** A commenter agrees with DMS's goal of improving the tracking of critical incidents as well as standardizing timelines for reporting, reviewing, and investigating critical incidents. The commenter states: "Without a strong, uniformed system that safeguards waiver participants, we will continue to	DMS thanks you for your comment.	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		see waiver recipients being abused, neglected, and exploited."			
PS7	Caregiver	**Protecting Personal Information:** A commenter is concerned about using participant social security numbers on PDS timesheets as a form of identification and record. The commenter felt this is a risk to the participant's' personal information and should be forbidden.	DMS policy regarding participant information follows federal law, regulations, and guidance (such as HIPAA) and requires confidentiality of all sensitive participant information. As part of the overall 1915(c) HCBS waiver redesign, DMS is reviewing provider qualifications, training, and standardization. DMS will consider public comments as it develops minimum standards for providers, including FMAs.		
PS8	Advocate	**Restraint Free:** A commenter supports DMS efforts to make the waivers as restraint-free as possible.	DMS thanks you for your comment.	Appendix G-2. Safeguards Concerning Restraints and Restrictive Interventions	
PS9	Provider	**Cross-Team Collaboration:** A commenter notes the case manager and care team should be alerted of any police involvement with the participant. The commenter informed DMS that these should be critical incidents but are not consistently reported due to lack of communication between case managers and the care team members.	For all critical incidents, DMS requires the reporter to notify several parties including law enforcement (if incident involves criminal activity), APS/CPS (if incident involves abuse, neglect or exploitation), the appropriate regulating agency, case manager, PDCM, direct service provider, family member (if specified in the PCSP), state or private guardian (if specified in the PCSP) and medical provider (if incident involves hospitalization or medication error). This information is available in Appendix G-1-	Appendix G-1-b. State Critical Event or Incident Reporting Requirements	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			b. State Critical Event or Incident Reporting Requirements of the amended 1915(c) HCBS waiver applications released in March 2019. Additionally, DMS held two training webinars for providers: one on May 7, 2019 to review updated incident reporting materials and processes and one on May 22, 2019 to review requirements and best practices for investigating critical incidents. New incident reporting materials and an instructional guide for incident reporting are available on the DMS Division of Community Alternative's website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx) along with recordings of the webinars and the webinar presentations.		
PS10	Caregiver and Provider	**Psychotropics:** Two commenters request DMS implement requirements for residential providers to notify case managers when medications are changed, including psychotropics. The commenters interpret the waiver amendment as requiring person-centered team's review the use of psychotropics but the residential provider is who changes the medication.	Waiver language does not specify the detailed types of communication that occur within person-centered service planning and coordination; however, DMS is updating standard operating policies and case manager training and will take this comment into consideration. DMS expects discussion on the appropriate use of all medications to take place among the waiver participant's person-centered team during the person-centered planning process.	Appendix G-3: Medication Management and Administration	
PS11	Providers	**Risk Mitigation:**	Consistent with federal regulation 42 CFR 441.301(c)(2)(vi), which states the PCSP	Appendix D-1.e: Risk	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Three commenters interpret that the amendment requires all risk management and risk assessment go through the case manager. The commenters believe this is a high level of responsibility for case managers and sets up a dynamic in which the case manager can have too much control over the service plan and the team. The commenters believe risk assessment, management and education should be collaborative and a shared responsibility of all providers.	must "Reflect risk factors and measures in place to minimize them, including individualized back-up plans and strategies when needed," risk management and risk assessment must be documented by the case manager. Risks are to be captured as part of the PCSP and ongoing monitoring Consistent with federal regulations, risk management and risk assessment must be documented by the case manager as risks are to be captured as part of the PCSP and ongoing monitoring. According to Appendix D-1.e, the case manager should engage with the participant, guardian, authorized representative, and members of the person-centered planning team to both identify risks and develop risk mitigation strategies. Providers are part of the PCSP team and participate in the PCSP meeting with their signature to indicate understanding of contents.	Assessment and Mitigation	
PS12	Providers	**BIC/HRC:** Several commenters recommend DMS update its expectations for behavioral intervention committee reviews and behavior support plan updates as follows: "Definition of clinical services is appropriate except for "…the plan shall be evaluated and revisions made as needed and at least annually." The behavior intervention committee expectations state that a BSP can be approved until a new BSP or	The 1915(c) HCBS waiver application does not address Behavior Intervention Committees (BICs) and Human Rights Committees (HRC) in detail These are dealt with in waiver-related Kentucky Administrative Regulations (KARs). DMS believes the Behavior Support Plan needs to be evaluated at least annually as part of the person-centered planning process. DMS will make updates to the waiver-related KARs reflect this.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		revision is completed. This provides a more effective and understandable delivery model that is based on necessity and not just an arbitrary time period. Recommend that the requirement for 10 plans to be revised at least annually be removed from the service definition to be consistent with BIC expectations and SCL waiver regs."			
PS13	Providers	**BIC/HRC:** Several commenters believe the Positive Behavior Support Plans and Functional Analysis should not go through a BIC approval process. If it is decided that rights restrictions and BSP's must go through this process, providers should be reimbursed for the time spent participating in the BIC and HRC.	DMS requires the use of Behavior Intervention Committees (BICs) in the Acquired Brain Injury (ABI), Acquired Brain Injury Long Term Care (ABI LTC), Michelle P. Waiver (MPW) and Supports for Community Living (SCL) waivers to monitor the health, safety, and welfare of waiver participants using behavior supports and that interventions are appropriate. DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. All rate changes will be subject to waiver budget neutrality requirements.	Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions	
Payment Rate Setting					

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PRS1	Participants, Caregivers, and Providers	**Unfunded Requirements:** Several commenters are concerned that new case management and participant-directed case management activities (i.e., service authorization and PDS self-assessment) are an increase in the amount of work case managers are asked to provide without increasing the case management and PDCM rates. Commenters believe new activities should not be asked of case managers and PDCMs if they are unfunded and that the new requirements, without a pay increase, will decrease the quality of case management across the HCBS system.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. All rate changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Case Management Definition) Appendix J: Cost Neutrality	
PRS2	Caregivers and Providers	**Case Management Rate:** Commenters on the ABI waivers requested the case management rate remain higher for ABI Acute than ABI LTC and other waivers. Commenters suggest ABI Acute case management is more labor intensive (i.e., current case management requirements consist of two monthly face-to-face visits) and routine contact with the participant is needed for acute rehab waivers.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will evaluate the costs of case management services waiver-by-waiver to determine whether service costs vary significantly by waiver, and whether disparities are due to differences in resource requirements. All rate changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Case Management Definition) Appendix J: Cost Neutrality	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PRS3	Providers	**Case Management Rate:** Two commenters are concerned that the current case management rates differ across waivers so much that the new standards and processes will be unattainable under some of the current rates. A commenter said this is especially a concern for the HCB waiver; stating: "The reimbursement for HCB CM is $100 per month. The reimbursement rate for Michelle P. CM is $50 per unit up to $200 per month. The PDS CM reimbursement rate is $162.50 per unit up to $325 per month. The SCL CM reimbursement rate is $320 per month. The ABI CM reimbursement rate is up to $434 per month. With the increase in mileage and time to make face-to-face visits, the case load will have to be lessened for HCB case managers. If the requirements are the same, it would seem that the reimbursement for HCB should be increased." Another commenter on the same topic stated "There is little difference in providing case management in one waiver program as to the next, and certainly not enough difference to merit the large discrepancy between the reimbursement rates. This adjustment would eliminate the fiduciary conflict that is currently in place within the program."	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. All rate changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Case Management Definition) Appendix J: Cost Neutrality	
PRS4	Provider	**Case Management Rate:** A commenter requests changing the MPW case	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will	Appendix C: Participant Services (Case	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		management unit and rate to the same as SCL case management, one-unit-per-month at $320 per unit.	determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will evaluate the costs of case management services waiver-by-waiver to determine whether service costs vary significantly by waiver, and whether disparities are due to differences in resource requirements. All rate changes will be subject to waiver budget neutrality requirements	Management Definition) Appendix J: Cost Neutrality	
PRS5	Provider	**Case Management Salary:** A commenter requests DMS mandate a minimum salary for case managers, account for administrative costs such as travel, and pay for overtime because some participants or their representatives are not available during standard working hours.	DMS acknowledges the commenter's concerns, however, DMS cannot require an individual agency to follow a certain business model.		
PRS6	Providers	**Case Management and PDCM Rate:** Several commenters recommend PDCM be reimbursed at a higher rate than traditional CM due to the additional support participants need to direct their own services. Commenters are also concerned that waiver redesign would result in a decrease in PDCM rates.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The cost survey evaluated all provider types, including PDS, to look at the cost of providing care. Additionally, the Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional	Appendix C: Participant Services (Case Management Definition) Appendix J: Cost Neutrality	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			costs for providers. All rate changes will be subject to waiver budget neutrality requirements.		
PRS7	Provider	**Case Management and PDCM Rates:** A commenter recommends DMS assign different code or modifiers for case management and PDCM with different rates. Separate codes would assist DMS in monitoring the cost and usage of each model separately.	As a part of the 1915(c) HCBS Rate Methodology Study, Navigant will make recommendations on how best to update service codes to reflect the revised services and facilitate service utilization monitoring. Defined rates and codes will be listed in Kentucky Administrative Regulations and provider manuals.		
PRS8	Provider	**CMA Payment of Goods and Services:** Commenters recommend DMS change the billing structure for services such as Goods and Services, Environmental and Minor Home Adaptations and Assistive Technology. Currently, case management agencies pay for these services and are reimbursed. This "puts a strain on the case management provider as we must assign ourselves as the provider of these services and pay for them upfront on behalf of clients". Commenters recommend changing this billing structure so providers of these services are paid directly by DMS.	Waiver services are required to be delivered by a Medicaid waiver-approved provider. In a number of instances related to Goods and Services, Assistive Technology and Environmental and Minor Home Modifications (i.e. purchasing goods from a retail store), the only approved provider is the case manager. Additionally, the need for Goods and Services, Environmental and Minor Home Modifications, or Assistive Technology should be determined during the person-centered planning process which is facilitated by the case manager. It is unlikely the vendors or contractors used for these services would be involved in the person-centered planning process.		
PRS9	Providers	**Residential and Case Management Retainer**: Commenters recommend DMS provide retainer	The 1915(c) HCBS Rate Methodology Study will examine vacancy rates in relation to		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		payments for residential and case management services while participants are admitted to inpatient facilities (i.e., hospitals) so the provider may hold the participant's place and prepare for the participant's return.	provider costs to better understand the financial impact of this issue.		
PRS10	Provider	**Residential Service Rates:** A commenter is concerned with the residential service rates for high need individuals including individuals with disabilities, individuals with acquired brain injuries, and individuals will a technology dependency. The rates have not kept up with the demand for overnight nursing needs and the commenter recommends the rate increase to meet this need.	The provider cost survey used for the 1915(c) HCBS Rate Methodology Study collected nursing costs across services. DMS will use this information to develop appropriate rate assumptions for addressing specific staffing costs across residential as well as other services.	Appendix J: Cost Neutrality	
PRS11	Caregiver and Providers	**Residential Service Rate:** Commenters recommend discontinuing the exceptional supports system for residential services and develop a separate residential services rate for participants in need of above average medical support while in residential services. A commenter recommends using the Health Risk Screening Tool (HRST) as a measurement for this need.	The 1915(c) HCBS Rate Methodology Study will examine the current use of exceptional supports and address whether improvements can be made based on revised rates.	Appendix J: Cost Neutrality	
PRS12	Providers	**Appendix J:** Several commenters noticed that the draft Appendix J did not account for multi-level service rates or the 10% increase to Supports for Community Living (SCL) rates. This caused	The figures listed in Appendix J are not reimbursement rates for services. The figures come from cost reports sent to the Centers for Medicare and Medicaid Services (CMS) every 18 months. DMS released a clarification to address these concerns in	Appendix J: Cost Neutrality	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		concern among commenters that these rates would no longer be available under redesign.	May 2019. You can see the letter here: https://chfs.ky.gov/agencies/dms/ProviderLetters/amendedwaiverclarification58.pdf		
PRS13	Caregivers and Providers	**HCB Rate Limit:** Commenters oppose the rate limits for the HCB waivers and encourage DMS to discontinue the limits and not apply them to other waivers.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements.		
PRS14	Caregiver and Providers	**General Rates:** Several commenters submitted a general concern that 1915(c) waiver rates are too low. These commenters did not specify which service rates are too low or their recommended increases.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. Service costs will be evaluated waiver-by-waiver to determine whether they vary significantly, and whether disparities are due to differences in resource requirements or historical differences in reimbursement. All rate changes will be subject to waiver budget neutrality requirements.	Appendix J: Cost Neutrality	
PRS15	Providers	**Training/Administrative Cost:**	The 1915(c) HCBS Rate Methodology Study will take into account any new service		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Several commenters are concerned about the administrative costs associated with the waiver amendment updates, including annual training for providers and TB testing. Commenters recommend considering coverage for these activities in the service rates.	requirements that would significantly impact the use of staff time and incur additional costs for providers. The aim of the study is to align reimbursement with provider costs. DMS will adjust indirect cost assumption as necessary in anticipation of increases to indirect costs.		
PRS16	Providers	**Recoupment for PDS:** Commenters recommend DMS change its practice of recouping denied PDS services from the case management agencies.	DMS is dedicated to providing technical assistance to providers across all waivers. DMS is engaging stakeholders in ongoing discussions about how to best balance technical assistance and recoupment for all providers.		
PRS17	Caregiver	**Billing Fraud:** A commenter is concerned about fraudulent billing practices of direct support providers.	DMS regularly monitors providers for cases of fraud, waste and abuse. If you suspect fraudulent behavior by a provider, please report it to the Office of the Inspector General at 1-800-372-2970.	Appendix I: Financial Accountability	
PRS18	Providers	**Billing for Team Meetings:** Several commenters recommend DMS allow all person-centered team members to bill for PCSP planning time. Recommendations include allowing billing of two units per meeting or factoring the cost into a monthly case management rate.	The 1915(c) HCBS Rate Methodology Study will identify typical length of time required for planning and other non-billable activities, and based on cost survey responses, DMS and Navigant will develop reasonable rate assumptions to account for the non-billable time required to support efficient service delivery. Coverage of both direct and indirect costs is subject to meeting waiver budget neutrality requirements.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PRS19	Provider	**Billing for Team Meetings:** A commenter recommends DMS allow direct care providers to bill while providing assistance during PCSP planning meetings. The commenter provided the following reason for allowing providers to bill for meetings: "For a team meeting, all providers should be allowed to attend and bill. This is critical for collaboration. I want the input of every team member and am frustrated when someone can't come due to not being able to bill. I believe that any providers should be able to be present during my home visit. This is just more information for me to hear from those providers and to be able to see how they interact together. It is also more convenient for the family to be able to see the cm while the CLS or BS is present instead of trying to schedule separate visits."	The 1915(c) HCBS Rate Methodology Study will identify typical length of time required for planning and other non-billable activities, and based on cost survey responses, DMS and Navigant will develop reasonable rate assumptions to account for the non-billable time required to support efficient service delivery. Coverage of both direct and indirect costs is subject to meeting waiver budget neutrality requirements.		
PRS20	Provider	**PDS Employee Rate**: A commenter recommends DMS offer a higher rate to direct service providers that are not immediate family members (i.e., legally responsible individuals). Offering a higher rate for employees outside the family could make the employees easier to find and retain.	As a part of the 1915(c) HCBS Rate Methodology Study, DMS and Navigant will compare wages within the Kentucky labor market to evaluate whether current wage assumptions are competitive. One of the goals of the rate study is to promote consistency in the rates for comparable services. The suggestion to establish rate differences between family members and non-family employees would not further that goal, and would be difficult to implement and to justify, based on the type of wage data collected in the provider cost survey. It is also	Appendix J: Cost Neutrality	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			important to note it is up to each individual PDS employer to determine pay rates for employees.		
Provider Access					
PA1	Caregivers and Providers	**Provider Network:** Several commenters shared the challenge for participants and their representatives to find qualified providers to meet their needs, especially PDS employees in rural areas.	DMS shares the concerns expressed related to direct service workforce challenges. Employee turnover, proper training, and caregiver reliability are well-documented challenges in the direct service workforce across the nation. 1915(c) HCBS waiver redesign aligns waiver service descriptions, policies and procedures. DMS is hopeful this will provide consistency and improves the environment for current and future providers.	Appendix E: Participant Direction of Services Appendix C: Participant Services (Provider Qualifications)	
PA2	Caregivers and Providers	**Certification Review and Billing Audits:** Several commenters recommended DMS schedule certification and billing audits ahead of time so providers may prepare. Commenters also suggested DMS establish a method for providers to appeal citations resulting from a billing or quality review.	The decision to provide specific notification of re-certification date is still being discussed by the DMS.	Appendix I-a: Financial Integrity and Accountability	
PA3	Providers	**Audits and Recoupment:** Commenters found the recoupment and provider audit process confusing and at times unfair, with minimal recognition of acting in the participants' best interest and creating a person-centered environment. One commenter said:	We must comply with federal and state requirements to properly monitor service delivery for all waiver participants. DMS agrees that PCSP should be person focused and will implement training, tools and resources to provide support to the person-centered planning process.	Appendix I-a: Financial Integrity and Accountability	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		"The audit process penalizes case managers for doing quality work. There is no merit system for recognizing quality case management. In fact, if a case manager provides freedom of choice and uses the plan of care as a fluid document to truly be person-centered, the record is more likely to be cited for recoupment because the more services and providers that are used, the more documentation that has to be in the records, more site visits to monitor those services, more recording on goal progress on monthly notes. The participant may be living independently, working in the integrated setting through Supported Employment, having a meaningful day with friends made through Community Access and have the therapies they need to maintain in the community, but the case manager risks being financially penalized through recoupment for not signing every page in black ink or not having the entire plan of care printed off for every modification, including all the duplicate pages. Whereas, a participant who will live in a staffed residence and only receive ADT services and nothing else may have less quality of life but the case runs far less risk of penalty. . . .Case Managers are accountable to all providers for recoupment of lost fees, as well as to the state auditing recoupment system, yet, many other service providers have a rate of pay far higher and with much less accountability."			

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PA4	Caregivers and Providers	**Technical Assistance:** Several commenters requested additional technical assistance from DMS and additional opportunity to correct issues identified in quality assurance reviews before recoupment. One commenter suggested quarterly technical assistance for providers.	DMS is dedicated to providing technical assistance to providers across all waivers. DMS is engaging stakeholders in ongoing discussions about how to best balance technical assistance and recoupment for all providers.		
PA5	Not Specified	**DMS Organizational Assessment:** One commenter supported the Cabinet's efforts to assess internal processes and break down siloes between departments in order to efficiently and effectively support participants. The commenter hoped these internal changes within the Cabinet would make more time and resources available to address other issues, such as shrinking waiver waitlists.	DMS agrees with your comment and is in the process of determining ways to make DMS polices, processes, and practices more efficient.	Appendix A: Waiver Administration and Operation	
PA6	Caregiver	**Accountability:** One commenter recommended DMS monitor and hold providers accountable for taking on participants they do not have the available staff to properly serve. The commenter suggested penalizing providers for taking on participants they are unable to serve.	The provider requirements are outlined in each waiver's Kentucky Administrative Regulation. DMS uses audits and reviews to monitor providers. DMS has also formed an "Additional Level of Care" task force to examine ways to help individuals with needs beyond the level of care the waiver can provide. This task force includes DMS staff, Cabinet for Health and Family Services (CHFS) staff, providers, and individuals.	Appendix A: Waiver Administration and Operation Appendix H: Quality Improvement Strategy (Waiver Assurances)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PA7	Caregiver and Providers	**Quarterly Reporting:** Several Commenters of the ABI waivers requested DMS discontinue quarterly summaries. The commenters stated: "We recommend that the requirement for quarterly summaries be removed. They are redundant and all the information about a participant's participation in services, POC, and progression/regression and maintenance should be captured in the complete contact note or IDT notes respectively. It is best practice in the nursing profession to only "chart once" to avoid errors. Quarterly summaries are double documentation."	DMS understands the concern. Throughout the waiver redesign process, DMS will continue to assess waiver processes to improve quality, ensure efficiency and effectiveness, and CMS compliance.	Appendix H: Quality Improvement Strategy (Waiver Assurances	
PA8	Provider	**DMS Organizational Assessment/Streamline Administration:** One commenter recommended streamlining DMS-required forms for providers by standardizing the forms across waivers and the frequency they need to be submitted.	The 1915(c) HCBS waiver application does not address the content of forms, however, DMS is in the process of standardizing forms across the Cabinet to reduce administrative burden for providers.		
Universal Assessment					
UA1	Caregivers and Providers	**Case Manager Assessors:** Several commenters request case managers continue to conduct their own assessments under the Acquired Brain Injury waivers.	DMS is not changing assessment responsibilities at this time. DMS reserves the right to change assessment responsibility in the future.	Appendix B-6-c. Qualifications of Individuals Performing Initial Evaluations	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
UA2	Caregiver, Advocate, and Providers	**Assessment Limitations:** Several commenters recommend DMS implement a new assessment to assess the needs of individuals with intellectual and developmental disabilities, not only physical disabilities such as with the SIS assessment.	DMS does not plan to implement a new assessment tool at this time. DMS will continue to evaluate its current tools and reserves the right to select a new tool in the future.	Appendix B-6-e. Level of Care Instrument	
UA3	Caregiver, Advocate, and Providers	**Assessment Limitations:** Several commenters recommend DMS use an assessment tool that assesses participants' cognitive status, behavioral issues and decision making by applying six primary assessment domains that are considered essential for assessment: (1) cognitive status, (2) functional abilities, (3) behavioral symptoms, (4) medical status, (5) living environment and (5) safety. The commenter recommends the K-HAT as a good starting point for assessing cognition.	DMS does not plan to implement a new assessment tool at this time. DMS will continue to evaluate its current tools and reserves the right to select a new tool in the future.	Appendix B-6-e. Level of Care Instrument	
UA4	Providers	**Assessment Frequency:** Three commenters recommend the assessment and re-assessment frequency be changed from annually to initially at enrollment and if / when the participant needs change (i.e., an event-based reassessment)	DMS does not plan to change the frequency of assessments at this time. The amended 1915(c) HCBS waiver applications include the implementation of event-based assessments to address when participants' needs change. DMS will continue to evaluate	Appendix B-6-g. Reevaluation Schedule	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			its current tools and reserves the right to change assessment frequency in the future.		
UA5	Provider	**SIS Assessment:** A commenter recommends service needs be identified based upon the assessment and reimbursed accordingly. The commenter used the planning and reimbursement for therapies as a model and suggested the Supports Intensity Scale as a good assessment tool to achieve this practice.	DMS appreciates the comment, however, this is the current established process.	Appendix B-6-e. Level of Care Instrument	
UA6	Advocates and Providers	**Universal Assessment:** Several commenters support the development of a universal assessment tool to be used across waiver populations. However, the commenters are concerned that a universal assessment would not adequately assess all service needs for all waiver populations.	DMS does not plan to implement a new assessment tool at this time. DMS will continue to evaluate its current tools and reserves the right to select a new tool in the future.	Appendix B-6-e. Level of Care Instrument	
UA7	Provider	**Case Manager Assessments:** For ABI case managers who conduct assessments, a commenter recommends DMS provide an assessment tool, guide and templates for case managers.	DMS understands your concern and is currently in the process of developing trainings for assessors on how to use the assessment tools.		
UA8	Caregivers and Providers	**Assessment Service Authorization** Four commenters suggested that case managers should perform the assessments and be able to bill.	DMS understands your concern and is currently in the process of developing trainings for assessors on how to use the assessment tools. DMS encourages case managers and Participant-Directed Case Managers	Appendix B-6-b: Responsibility for Performing Evaluations and Reevaluations	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			(PDCMs) to co-attend the annual, functional assessment (if they are not the individual conducting it) in order to get a better idea of the waiver participant's needs. It is important to note the case manager/PDCM should not answer questions on the participant's behalf or influence the participant's response when attending an assessment.		
UA9	Caregiver	**Assess for Vulnerability and Abuse:** A commenter recommends developing an assessment tool for how vulnerable a participant is to abuse, such as their communication skills and ability to evaluate situations.	DMS does not plan to implement a new assessment tool at this time. DMS will continue to evaluate its current tools and reserves the right to select a new tool in the future. DMS is developing training for case managers to aid in the identification of abuse, neglect and exploitation.	Appendix B-6-e. Level of Care Instrument	
UA10	Provider	**Case Manager Involvement:** A commenter recommends DMS mandate Case Managers attend the assessment / re-assessment so they have input and awareness of the assessment occurring with their participant.	In the amended 1915(c) HCBS waiver applications released in March 2019, DMS does not require case managers/Participant Directed Case Managers (PDCMs) to attend functional assessment/re-assessment. DMS does encourage case managers/PDCMs to attend in order to get a better idea of the waiver participant's needs. It is important to note the case manager/PDCM should not answer questions on the participant's behalf or influence the participant's response when attending an assessment.	Appendix B-6-b: Responsibility for Performing Evaluations and Reevaluations	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
UA11	Provider	**RN Assessment Review:** A commenter recommends allowing social workers to review assessments / re-assessments and not limit the review to RNs. The commenter claimed it is an additional administrative burden to have RNs only review.	DMS will review the current requirements for licensed entities, including social workers, and their role in conducting and reviewing the assessment process.	Appendix B-6-a: Reasonable Indication of Need for Services	
Covered Services					
CS1	Participants, Caregivers and Providers	**ABI / ABI-LTC - Therapies:** Several ABI and ABI LTC participants, caregivers, and providers requested therapies remain in the waiver because the State Plan maximum is not sufficient, and, in their opinion, therapies are an effective use of Medicaid dollars.	The Centers for Medicare and Medicaid Services (CMS) does not allow states to offer a service in its 1915(c) Home and Community Based Services (HCBS) waiver if the exact same service is available through the state's Medicaid program. Participants enrolled in a 1915(c) HCBS waiver have access to services offered by Kentucky's state Medicaid program. Because the therapies offered through the Acquired Brain Injury (ABI) and Acquired Brain Injury Long Term Care (ABI LTC) waiver should differ from the therapies offered through Kentucky's state Medicaid program, DMS will not transition them out of the amended ABI and ABI LTC waiver applications released in March 2019. DMS will transition therapies out of the amended Michelle P. Waiver (MPW) in order to comply with CMS guidance. Therapies offered through MPW are the same as what is offered through Kentucky's state Medicaid program. Waiver participants older than 21	Appendix C: Participant Services	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			should still be able to receive their therapies using the state Medicaid program. These services have what DMS calls a "soft limit" meaning each waiver participant should be able to get the amount of therapy they need through the state Medicaid program as determined by their person-centered service plan (PCSP). Most MPW providers should have received a provider number for the state Medicaid program in 2016 when DMS transitioned therapies out of the Supports for Community Living and should be able to continue providing these services. MPW participants younger than 21 should already be receiving therapy services through the state Medicaid program's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.		
CS2	Caregiver and Providers	**Michelle P. - Therapies:** Several commenters requested therapies remain in the Michelle P. waiver. If therapies are removed, stakeholder would like reassurance that these services are offered elsewhere, for example State Medicaid Plan without hard limits, and that the transition of these services to State Plan will be handled with care, learning from the therapies transition for SCL.	The Centers for Medicare and Medicaid Services (CMS) does not allow states to offer a service in its 1915(c) Home and Community Based Services (HCBS) waiver if the exact same service is available through the state's Medicaid program. Participants enrolled in a 1915(c) HCBS waiver have access to services offered by Kentucky's state Medicaid program. Because the therapies offered through the Acquired Brain Injury (ABI) and Acquired Brain Injury Long Term Care (ABI LTC) waiver should differ from the therapies offered through Kentucky's state Medicaid program, DMS will not transition them out of	Appendix C: Participant Services	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			the amended ABI and ABI LTC waiver applications released in March 2019. DMS will transition therapies out of the amended Michelle P. Waiver (MPW) in order to comply with CMS guidance. Therapies offered through MPW are the same as what is offered through Kentucky's state Medicaid program. Waiver participants older than 21 should still be able to receive their therapies using the state Medicaid program. These services have what DMS calls a "soft limit" meaning each waiver participant should be able to get the amount of therapy they need through the state Medicaid program as determined by their person-centered service plan (PCSP). Most MPW providers should have received a provider number for the state Medicaid program in 2016 when DMS transitioned therapies out of the Supports for Community Living and should be able to continue providing these services. MPW participants younger than 21 should already be receiving therapy services through the state Medicaid program's Early Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.		
CS3	Caregivers, Provider, and Advocates	**All Except MWII - Music Therapy:** Multiple commenters requested music therapy be added to the waivers as a covered service.	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			be subject to waiver budget neutrality requirements.		
CS4	Providers and Advocate	**All Waivers - Hospice:** Several commenters requested waiver participants have access to hospice services while still enrolled in the waiver.	1915(c) HCBS waiver participants can access hospice services and remain enrolled in the waiver. Per CMS guidance, a waiver participant cannot receive services through hospice that are the same as what they receive through waiver and vice versa. In the Home and Community Based (HCB) waiver, the way services are currently bundled makes it difficult to determine which waiver services and hospice services are the same. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS unbundled HCB services. This should help determine which waiver services and hospice services are the same and make it easier for waiver participants to be enrolled in hospice without receiving duplicative services.		
CS5	Providers	**All Waivers - Translators and Interpreters:** Several commenters requested translation and interpreter services be available for all waiver participants.	A 1915(c) HCBS waiver participant's communication needs should be determined through person-centered planning. It is the responsibility of a provider to ensure a waiver participant's communication needs are met. Providers who fail to provide information to participants in a manner they can easily understand risks violating CMS Federal Final Rule.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CS6	Providers	**All Waivers - Shared Living:** One commenter said offering Shared Living services across the waivers is an option to support participants living in the community rather than a residential facility. Shared Living would offer individuals more choice in where to live and reduce the cost to the Commonwealth. Another commenter suggested increasing the monthly Shared Living allowance to make the option more appealing. **SCL - Shared Living:** Commenters recommended: 1. Allowing relatives to be Shared Living caregivers. Commenters recommended non-immediate family members such as aunts, uncles, nieces, and nephews, etc. should be permitted to provide Shared Living. The commenter asked DMS to explicitly eliminate immediate family members but include others. 2. Including phone and cable in room and board expenses. The commenter stated: "Room and board definitions should be the same for shared living budgets as they are for residential providers. For example, it is expected that residential would provide phone service and basic cable as part of their room and board, but DAIL will not allow these items to be budgeted in the	Shared Living will remain in the SCL waiver only for now. DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. Per CMS guidance, DMS does not allow relatives to provide Shared Living services to waiver participants. In the "Application for a 1915(c) Home and Community-Based Waiver: Instructions, Technical Guide and Review Criteria," room and board for this service is only payable to an unrelated personal caregiver who lives in the same home as the waiver participant. The technical guide says "unrelated is defined as someone who is unrelated by blood or marriage to any degree." DMS believes this is an opportunity for waiver participants to expand their network and increase the number of individuals they can rely on for assistance beyond family members. CMS allows states to compensate the waiver participant for costs he or she incurs for the rent and food for an unrelated caregiver. Per the Shared Living definition in the SCL waiver, DMS covers the costs of the following: property-related costs such as rental or purchase of real estate and	Appendix C: Participant Services (Shared Living Definition)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Shared Living reimbursement. It is already difficult to recruit Shared Living caregivers, and it is a further barrier when basic amenities like phone, cable TV and internet are not included in the voucher."	furnishings, maintenance, utilities, related administrative services, and three meals a day, or other full nutritional regiment. DMS does not consider amenities such as cable or internet as part of these expenses and does not plan to change the policy at this time.		
CS7	Caregiver	**SCL - Vehicle Adaptation:** Under vehicle adaptations, it is stated that the provider "follows all Office of Vocational Rehabilitation (OVR) service requirements". This seems to be rather vague and may cause difficulties. A commenter suggested a citation to the precise service requirements needing to be followed.	Providers should refer participants to the Office of Vocational Rehabilitation for an evaluation. The office can be found at https://kcc.ky.gov/Vocational-Rehabilitation/Pages/default.aspx.	Appendix C: Participant Services	
CS8	Caregivers and providers	**ABI / ABI-LTC - Therapeutic Recreation:** Commenters suggested Therapeutic Recreation should be added as a service, especially to ABI waivers.	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. It is important to note the therapies currently available under the ABI waiver can use a range of modalities, including recreation, to achieve a waiver participant's goals and objectives.	Appendix C: Participant Services	
CS9	Caregivers, Provider,	**ABI / ABI - LTC - Cognitive Rehabilitation Therapy:**	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
	and Advocates	Commenter requested Cognitive Rehabilitation Therapy be added to ABI waivers. A commenter strongly urged DMS to add Cognitive Rehabilitation Therapy services to the waiver, which would include physical, occupational and speech therapy, to appropriately distinguish the purpose and impact of these therapies from those on other waivers.	determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. DMS expects therapy providers to be active in the person-centered planning process in order to ensure the therapies they provide help achieve the participant's goals and objectives.		
CS10	Providers	**SCL - Adult Day Health Care (ADHC):** Several commenters claimed that Adult Day Health Services have been removed from the SCL waiver.	In the amended 1915(c) HCBS waiver applications released in March 2019, DMS did not change the current mode of delivering Adult Day Health Services (ADHC) in the SCL waiver. ADHC are qualified providers to deliver day training services. Please refer to the provider qualifications section under Day Training for qualifications for ADHCs to deliver the service. DMS issued a provider letter in early May to clarify the definition of Day Training in SCL. Please refer to this link for a copy of the letter: https://chfs.ky.gov/agencies/dms/ProviderLetters/amendedwaiverclarification58.pdf	Appendix C: Participant Services (ADHC Definition and Provider Qualifications)	
CS11	Providers	**SCL - Day Training:** In the current regulation Day Training is a defined service with an option (if the recipient meets the criteria) for services to be provided in an ADHC. Currently the State recognizes the different settings not only by criteria but also by reimbursing a	In the amended 1915(c) HCBS waiver applications released in March 2019, DMS did not change the current mode of delivering Adult Day Health Services (ADHC) in the SCL waiver. ADHCs are qualified providers to deliver day training services. Please refer to the provider qualifications section under	Appendix C: Participant Services (Day Training Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		different rate. If the recipient meets the criteria for Day Training in an ADHC, the current rate is 3.30 vs the 2.52 for Day Training outside of an ADHC. In the proposed regulation, Adult Day Health is defined as a provider type (page 93) but we could not identify the differentiation of Day Training when provided in an ADHC. There is not a separate rate identified or definition identified in the new regulations. Is the intent to have one blended rate for Adult Day Health? This would severely limit the ability for ADHC providers to continue to provide Day Training services at the proposed rate.	Day Training for qualifications for ADHCs to deliver the service. Rates are not established in the waiver application, but rather in the waiver-related Kentucky Administrative Regulations (KAR). Commenters appear to be concerned about figures listed in Appendix J of the 1915(c) HCBS waiver applications. It is important to note these figures are not reimbursement rates for services. They come from cost reports sent to CMS every 18 months. DMS knows stakeholders are eager to see what types of adjustments DMS might make to rates, however, those updates will not come until the completion of the 1915(c) HCBS Rate Methodology Study currently underway. DMS issued a provider letter in early May to clarify this issue. Please refer to this link for a copy of the letter: https://chfs.ky.gov/agencies/dms/ProviderLetters/amendedwaiverclarification58.pdf	Appendix J: Cost Neutrality	
CS12	Provider	**All Waivers Except MWII - Adult Day Health Center:** One commenter requested participants receive personal care from their own PDS worker, or the person of their choice, while at an ADHC. The commenter stated: "When a participant is receiving ADHC services, all personal care needs should be addressed within that service." A participant has always been given the right to choose where they want their personal	When DMS put this phrase in the ADHC definition, our intention was to remind the ADHC that it is responsible to take care of any personal care needs that arise for a participant while they are attending an ADHC. For example, if a participant needed assistance with toileting it would be the ADHC's responsibility to take care of that need. The phrase was not intended to dictate that all personal care needs must be met in the ADHC setting, as this would be a duplication of services. Personal care needs,	Appendix C: Participant Services (ADHC Definition)	Update ADHC definition to make language on attending to personal care needs clearer

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		care done. Because of the sensitive nature of personal care, it may not be appropriate or wanted at the ADHC. ADHC will, without question, address any personal care concerns with the patient while they are at the center, but forcing them to receive this at the center would set back the progress we have made over the last 25 years of providing services that reflect the client's individual preferences concerning personal care. We respectfully request that you change the wording."	such as bathing, dressing or grooming, can take place before or after attendance at the ADHC and should be driven by the participant's desires as determined through the person-centered planning process. DMS will evaluate the wording of the ADHC definition and revise the language to make it clearer.		
CS13	Providers and Advocate	**All Waivers Except MWII and HCB - Concurrent Billing:** Commenters recommended DMS allow concurrent billing for specific services such as: 1. Behavior therapist and direct support providers 2. 2. Case management and direct support providers. One commenter stated: "The nature of behavior support services is such that the behavior specialist must be able to observe, train, and collect data across all environments - including for instance during the provision of day programming or community access services. It is recommended that the application be amended to allow concurrent billing for behavior support services with any other service."	DMS agrees there are instances where it is appropriate for Positive Behavior Supports to be billed concurrently with other services and will update the amended 1915(c) HCBS waiver applications. It is important to note, the concurrent billing will only be allowed when the service is being used for training, observation, or development of the behavior support plan.	Appendix C: Participant Services (Service Limitations)	Language in Positive Behavior Supports will be amended to allow for concurrent billing.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CS14	Participant and Providers	**All Waivers - Skilled Nursing and Nursing Support:** Commenters requested DMS add skilled or nursing services to all waivers. The majority of these comments specifically ask for nursing supports be added to the HCB and SCL waivers, similar to the ABI - LTC waiver.	.DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. DMS expects case managers to connect 1915(c) HCBS waiver participants who are in need of this type of care with services available to them through Kentucky's state Medicaid program.	Appendix C: Participant Services	
CS15	Provider	**All Waivers - EPSDT:** One commenter stated: "I noticed on several services that they cannot be accessed under age 21 and must access EPSDT. This is manageable under the therapies however I am extremely concerned about the Personal Assistance service and incontinent supplies. At this time, I do not know any service providers that can bill this way. If this remains in the amendments, there needs to be information to providers on how to become EPSDT providers and how to bill for those services. Any lack of services could cause significant distress for consumers on the waiver." *Note: comment was submitted by a Michelle P stakeholder but is applicable to all waivers permitting children.	The Early Periodic Screening, Diagnosis and Treatment (EPSDT) benefit allows individuals under the age of 21 to receive all medically necessary services through Kentucky's state Medicaid program. DMS is working to improve coverage for our younger waiver participants.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CS16	Providers	**MPW and SCL - Nutrition Services:** I had so many families approach my table requesting nutrition services who were on the Michelle P. waiver. I had mothers literally crying as they sat at my table stating that they had no one to come to their home to address their child's feeding tube needs after they left the First Steps program. I know the goal is to unify the SCL and Michelle P. waivers. I recommend that nutrition services be added to the Michelle P. waiver with this revision of the regulations. It is desperately needed and is not available through direct Medicaid.	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. 1915(c) HCBS waiver participants younger than 21 who need nutrition services should be able to receive them through Kentucky's state Medicaid program using the EPSDT benefit. DMS expects case managers to connect 1915(c) HCBS waiver participants who are in need of this type of care with services available to them through the Kentucky state Medicaid program. Nutrition is an available service in SCL through Consultative Clinical and Therapeutic Services	Appendix C: Participant Services (Consultative Clinical and Therapeutic Services Definition)	
CS17	Provider	**Michelle P. - Psychological Services/ Therapy:** One commenter requested DMS add Psychological Services to the Michelle P. waiver. The commenter stated: "… the issue of Psychological Services. This is provided through the SCL waiver, but not the Michelle P. waiver. I recommend that this service be added to the Michelle P. Amendment as the two programs are aligned. There is a significant need for psychological services in the Michelle P. waiver."	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. 1915(c) HCBS waiver participants younger than 21 who need psychological services should be able to receive them through Kentucky's state Medicaid program using the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			EPSDT benefit. DMS expects case managers to connect 1915(c) HCBS waiver participants who are in need of this type of care with services available to them through Kentucky's state Medicaid program.		
CS18	Providers	**HCB - Case Management (CM), Participant Directed Case Management (PDCM), and Financial Management Services (FMS):** Commenters highlighted HCB waiver Case Management, Participant Directed Case Management, and Financial Management Services as not matching the service definitions and provider specifications of other waivers. This concerned the commenter that HCB was treated differently than other waivers.	In the amended 1915(c) HCBS waiver applications released in March 2019, individuals known as Support Brokers will become Participant Directed Case Managers (PDCM). In the current HCB waiver, the Support Broker service is billed together with Financial Management Services (FMS). DMS cannot unbundle these services in phase one of 1915(c) HCBS waiver redesign and, therefore, they will continue to be billed together in the amended HCB waiver application. In ABI, ABI LTC, MPW and SCL, Support Broker and FMS are billed separately and will continue to be. DMS will determine if changing CM, PDCM, and FMS is appropriate in phase two of 1915(c) HCBS waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Participant Directed Services (PDS) subpanel is studying FMS responsibilities and will provide feedback to DMS.		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CS19	Caregivers and Providers	**SCL - Assistive Technology:** One commenter requested clarification of qualified assistive technology providers. It was unclear to the commenter if participants that select PDS can access assistive technology. **HCB and MPW - Assistive Technology:** Two commenters recommended adding assistive technology services to HCB and Michelle P.	Assistive Technology is available to waiver participants using the PDS service delivery method. The PDCM should be able to coordinate use of this service. DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Assistive Technology Definition)	
CS20	Provider	**All Waivers - Accountability for Service Definitions:** One commenter recommended providers, families, PDS employees be accountable to the service definition. The commenter said: "For example, a person may be allocated 40 units of adult day training, but in essence may be attending the program without receiving any supports outlined in the service definition. In essence, the program becomes a 'babysitting' service or offers diversional types of activities. Though residential is a 24-hour program, the daily reimbursement rate is less than the adult day	One of the goals of the waiver redesign is to establish clear accountability throughout the HCBS system for participants, providers, and DMS. DMS made several updates to service definitions to clarify their intention and permitted activities. DMS intends to continue monitoring and oversight activities to confirm waiver services are provided as intended. These efforts may be updated in response to HCBS redesign activities, including public comment		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		training rate, thus most residences are staffed approximately 16 hours but reimbursed a 24-hour rate. . . In short, I would recommend that there be tighter guidelines to hold providers to being accountable to the service being provided. Anyone that receives medical attention reimbursed by insurance has to have justification for the service being provided…just because I show up for a doctor's appointment for a checkup doesn't allow the doctor to bill for blood work…yes the doctor provided a service but the reimbursement should be consistent with the service provided. Accountability!"			
CS21	Providers	**All Waivers - Transportation** Commenters recommended adding non-medical transportation as a waiver service.	DMS recognizes the need for non-medical transportation as a service, however, DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements.		
CS22	Provider	**All Waivers Except MWII - Service Menu:** One commenter recommended that all waivers should offer the same Participant Directed Services to maximize PDS options.	DMS currently offers Participant Directed Services (PDS) in all 1915(c) HCBS waivers, with the exception of the Model II Waiver. It is important to note that PDS is not a waiver, but a method for delivering 1915(c) HCBS waiver services. Waiver participants can opt to receive services through traditional providers, employees they hire and pay	Appendix C: Participant Services; Appendix E: Participant Direction of Services	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			themselves through PDS or a mix of the two options known as “blended” services. DMS is enhancing training for case managers and the person-centered planning process in order to best identify the most appropriate service delivery option for each waiver participant.		
CS23	Participant and Advocate	**All Waivers - Service Menu:** Two commenters recommended that all waivers should offer the same services because it puts people with disabilities against each other as a fight for the best spot on the best waiver.	Waivers are designed to provide supports for specific populations and so, by their nature, must offer services specific to that population. DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements.		
CS24	Providers	**All Waivers - Medical Liaison:** Several commenters asked DMS to consider adding a Medical Liaison Service which provides access to a medical professional to act as a liaison between the participant and medical professionals. Commenters recommended this service supplement residential services in particular.	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. In addition to identifying a waiver participant’s needed waiver services, DMS encourages case managers, along with the waiver participant’s person-centered planning team to work together to identify non-waiver	Appendix D: Person-Centered Planning	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			services available through the state Medicaid program and community services that can provide needed supports to the participant.		
CS25	Provider	**SCL - Residential Options:** Several commenters recommended DMS provide Residential Services between current residential facilities and institutional care. Four commenters stated the following: "Kentucky needs another level of service between SCL and ICF. The Cabinet has no options for people who can't be safely supported in SCL due to health, behavioral or psychiatric needs. Providers are stuck with no options even after giving the required 30-day termination notice. Frequently, there is no other willing provider and the person is also stuck with no prospect for improvement and usually just continues to regress. This can go on for months or even years. Also, the regulations are contradictory with one prohibiting providers from admitting a person whose needs they cannot meet and another requiring the provider to serve the person until another provider is found, even if it's unsafe to do so. Families are taking individuals in and out of crisis centers with no improvement and often have to travel to do it. Need more crisis services as behaviors frequently become dangerous."	DMS has formed an "Additional Level of Care" task force to examine ways to help individuals with needs beyond the level of care the waiver can provide. This task force includes DMS staff, Cabinet for Health and Family Services (CHFS) staff, providers, and individuals.		
CS26	Provider	**SCL - Residential Options:**	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service	Appendix D: Person-	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		One commenter stated: "Individuals who are at imminent risk of institutionalization and in need of more intensive services for at least a temporary period of time if they are to remain in the community. So that these individuals can be treated through the SCL Waiver rather than in an institution, I respectfully request that the Cabinet consider creation of Emergency Staffed Residences to provide a safe and secure setting for these individuals. Emergency Staffed Residences need to be maintained solely for this high acuity population. In order to reserve the space and resources needed to safely maintain these individuals in the community, residential agencies need sufficient funding to maintain the residences when they are not needed so as to ensure space when a high acuity individual needs a placement. Residential agencies also need funding sufficient to double staff the home at all times until such time as the participant is ready to transition down to a lower level of care."	offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. In addition to identifying a waiver participant's needed waiver services, DMS encourages case managers, along with the waiver participant's person-centered planning team, to work together to identify non-waiver services available through the state Medicaid program and community services that can provide needed supports to the participant. DMS has also formed an "Additional Level of Care" task force to examine ways to help individuals with needs beyond the level of care the waiver can provide. This task force includes DMS staff, Cabinet for Health and Family Services (CHFS) staff, providers, and individuals.	Centered Planning	
CS27	Provider	**ABI - Residential Options:** A commenter stated: There is a need for ABI survivors to experience increased independence with supports such as in an apartment living with onsite support/rehab services this could be considered a residential level 2 or 3 and the provider would still collect rent and provide therapies as in residential settings, but the	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. It is important to note residential services offered through the ABI, ABI LTC, and SCL	Appendix C: Participant Services	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		individual would have their own apartment for increased independence.	waivers do not reimburse providers for room and board, but rather the supports and increased supervision provided to the waiver participant. Waiver participants can achieve increased independence as suggested in the comment while living on their own in an apartment and accessing currently available waiver services.		
CS28	Caregivers, Provider, and Advocates	**ABI / ABI - LTC -Residential Maximum Residents:** The maximum number of individuals receiving waiver services who can reside in a home should be increased for ABI waivers.	DMS will evaluate potential updates to residential services in phase two of 1915(c) HCBS waiver redesign.	Appendix C: Participant Services (Residential Support Services I and II Definitions)	
CS29	Provider	**Michelle P. - Residential Services:** I wish that there could be more opportunities for housing for Michelle P. participants. Some Michelle P. clients do not necessarily need the intensity of supports of SCL but they do need housing options, and this is extremely limited.	While DMS agrees that housing resources for people with disabilities are scarce, DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will be subject to waiver budget neutrality requirements. It is important to note residential services offered through the ABI, ABI LTC, and SCL waivers do not reimburse providers for room and board, but rather the supports and increased supervision provided to the waiver participant. Waiver participants can achieve increased independence as suggested in the	Appendix C: Participant Services (Residential Support Services I and II Definitions)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			comment while living on their own in an apartment and accessing currently available waiver services.		
CS30	Providers	**SCL and ABI / ABI-LTC - Residential:** Two commenters recommended DMS limit the number of days participants receiving residential services can use a "Leave of absence" to 14 calendar days. The commenters believe limiting the number of days would encourage participants to live independently outside of their family home in a residential facility.	DMS encourages participants to live independently while maintaining strong social and family connections. To allow for this flexibility and ability for participants to control their own schedule, DMS will not set any "leave of absence" limits.	Appendix C: Participant Services (Residential Support Services I and II Definitions)	
CS31	Providers	**SCL - Technology Assisted Residential:** Several commenters state: Technology assisted residential has potential to help participants transition to more independence, but unreasonable expectations create a barrier for providers. The commenter recommended changing the response time from 15 minutes to 30 or 45 minutes for any situation that requires an on-site response to assess the situation.	DMS will evaluate updates to this service based on the findings of the 1915(c) Rate Methodology Study and research into best practices in other states. If the findings warrant updates, those would be made in phase two of 1915(c) HCBS waiver redesign.	Appendix C: Participant Services (Technology Assisted Residential Definition)	
CS32	Provider	**HCB - Home Delivered Meals:** One commenter recommended DMS revise the definition of Home Delivered Meals to include "chilled" meals. The commenter defined chilled meals as follows: “chilled” meals remain good in the refrigerator for	DMS has chosen not to add “chilled” to the definition of the Home Delivered Meals service to keep its approach to the service consistent with other federal meals programs in Kentucky.	Appendix C: Participant Services (Home Delivered Meals Definition)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		over 14 days after delivery, which maintains meal quality, texture, and appeal, while allowing participants to more easily heat and eat meals. This shelf life is achieved through a USDA approved packaging process, similar to many products you may find in the local grocery store. There are no preservatives added in this process.			
CS33	Provider	**All Waivers Except MWII - Car Insurance and Driver's License Verification:** A commenter is concerned about the process for handling the verification of car insurance and drivers licenses for existing PDS Employees due to the sheer volume of current employees.	If the employee provides transportation, the employee must be legally licensed to operate the transporting vehicle and obey all applicable state laws while operating the vehicle. This is for the safety of the employee and the participant. It is only applicable to employees that provide transportation. It is the PDCM's responsibility to monitor regulatory requirements and that required documentation is maintained in the participant's record.	Appendix C: Participant Services (Provider Verification)	
CS34	Provider	**All Waivers - Annual Disclosure of Ownership:** A commenter said: "Annual Disclosure of Ownership: Providers should complete a change in ownership form when this occurs and not complete annually."	This is not part of the 1915(c) HCBS waiver application. This is not a requirement specific to waiver providers. It is a requirement for all Kentucky Medicaid providers and cannot be addressed through waiver redesign.		
CS35	Provider	**SCL (or All Waivers Except MWII) - Recreational Services:** A commenter said: "I recommend adding some type of service (other	DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		than residential & Community Access) that provides time for recreation unrelated to making friends or having a valued social role. Sometimes people want to just have fun or pursue an interest without doing something routine & making friends. The current system does not allow for this. I agree with helping individuals make & keep friends but not every activity a person wants to do revolves around others… especially for introverts. More attention needs to be given to activities like recreation & exercise without tying those activities to social goals every time. Also, a lot of the time recreation & exercise requires leaving the home & many times requires 1:1 assistance (especially exercise) or at least only helping one person at a time (so you do not have a group of individuals going out in the community together doing the same thing). It is unreasonable to expect those needs to be met by residential (without additional funding) while also expecting residential to maintain what is going on at home. Health is such an issue with our population having some of the highest rates of being overweight so exercise absolutely needs to be addressed. Both exercise & recreation are beneficial to mental health as well."	be subject to waiver budget neutrality requirements. DMS expects the person-centered planning team to identify unpaid supports who can help waiver participants reach these goals and, for waiver participants in residential services, for the provider to fill in when needed. Nothing in the amended 1915(c) HCBS waiver applications prohibits a residential provider from supporting a person in the recreational activities of their choosing.		
CS36	Provider	**All Waivers Except MWII - Personal Care Agencies:** A commenter asks DMS to consider allowing personal care agencies to qualify as traditional personal care providers.	DMS does not plan to add personal care service providers at this time, however, DMS is evaluating the provider network and looking for ways to eventually add them.	Appendix C: Participant Services (Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CS37	Caregivers and Providers	**Michelle P. - Community Living Support / Community Access:** Several commenters thought the proposed changes to Community Living Support, now Community Access, in the Michelle P. waiver did not accurately describe the original intention of the services and interpreted the revisions as a reduction in services. Commenters noticed that Community Access is now similar to the definition in SCL but has changed significantly from the regulation definition for Community Living Supports. The commenters believe these two services have different intentions. One commenter stated: "Consistent with guidance issued to providers in recent years, CA has been narrowly focused on supporting participants to develop durable and meaningful relationships with natural supports and developing valued social roles in their communities. CLS, on the other hand, has been used much more broadly, for instance to support participants in accessing their communities much more generally, in support of a variety of goals - for instance, to obtain exercise, to develop skills related to money management, or to participate in community leisure activities of their choice. To the extent that the standardized language broadens the scope of activities and goals permitted under CA, the language is a step forward. To the extent that the standardized language may narrow the scope of activities and goals previously permitted	DMS will make changes to the amended 1915(c) HCBS waiver applications to clarify the intention of Community Access and Community Living Supports. This includes changing the name of the Community Access service to Community Living Supports to better reflect its intention. The goal of Community Living Supports is to not only assist waiver participants in accessing the community, but also in attending to or helping them learn how to attend to their personal care needs while in the community. For waiver participants who have personal care type needs at home, they can use the Personal Assistance service.	Appendix C: Participant Services (Community Access and Community Living Support Definition)	Community Access in MPW will now be known as Community Living Supports

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		under CLS, this is a step backwards." For example, two commenters that currently use CLS services for a YMCA membership are now concerned that option will be, or is already, lost under the new definition. Commenters were also concerned about the language regarding residential services in Michelle P., given the waiver does not offer residential services.			
CS38	Provider	**SCL and Michelle P. - Community Living Supports / Community Access:** One commenter recommended allowing providers to bill concurrently for residential and community access services to maintain the participant's relationship with their current Community Access Specialists.	When a participant receives residential services, the provider is responsible for providing services that enable participants to get out into the community. Allowing billing for Community Access as a separate service would be duplicative.	Appendix C: Participant Services (Community Access and Community Living Supports Definition)	
CS39	Providers	**SCL and Michelle P. - Community Living Supports / Community Access:** Several commenters stated: CLS provided for in-home as well as community activities. The new application separates in-home activities through Personal Assistance. In the delivery of CLS services, staff often will work with them in their home to increase skills necessary for allowing them to live as independently as possible prior to going out into the community to work on additional skills. This would cause major confusion for staff if	DMS will make changes to the amended 1915(c) HCBS waiver applications to clarify the intention of Community Access and Community Living Supports. This includes changing the name of the Community Access service to Community Living Supports to better reflect its intention. The goal of Community Living Supports is to not only assist waiver participants in accessing the community, but also in attending to or helping them learn how to attend to their personal care needs while in the community. For waiver participants who have personal care	Appendix C: Participant Services (Community Access and Community Living Supports Definition)	Community Access in MPW will now be known as Community Living Supports

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		they were having to bill two different codes for 1 'session' with a participant.	type needs at home, they can use the Personal Assistance service.		
CS40	Providers	**SCL - Community Guide:** Several commenters are confused about the changed made to the Community Guide and their relationship with case management / PDCM. Several commenters claimed that Community Guides must provide direct and indirect services to waiver participants such as training and support to PDS Representatives, including telephonic interactions.	Case Management/Participant Directed Case Management and Community Guide are two distinct services designed to provide different supports to a 1915(c) HCBS waiver participant. A case manager or PDCM is responsible to manage tasks related to a participant's enrollment in the waiver, which include facilitating development of the person-centered service plan, linking the participant to needed services, and monitoring the delivery of services. Community Guide services are designed to help waiver participants who elect the PDS option and need extra support in managing their services. This support can include help with recruiting, hiring, and managing PDS employees.	Appendix C: Participant Services (Community Guide Definition)	
CS41	Provider	**SCL and Michelle P. - Environmental and Minor Home Modifications:** One commenter recommends expanding the scope of Environmental and Minor Home Modifications to include rental properties to keep individuals in the community.	In the amended 1915(c) HCBS waiver applications released in March 2019, DMS expanded the scope of Environmental and Minor Home Modifications to include adaptations to rental properties that are portable. This means DMS will pay for adaptations to rental properties that can go with the participant should he or she move to a new property. DMS believes this will increase the housing options available for participants and they will not have to spend	Appendix C: Participant Services (Environmental and Minor Home Modifications Definition)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			part of the service's $10,000 lifetime limit on rental property adaptations that would have to be left behind if they moved.		
CS42	Caregivers and Providers	**All Waivers Except MWII - DME/E1399/Goods and Services/CCTS:** Several commenters noted that the annual limit for goods and services is too low ($1,500) and recommend DMS increase the limit. Several commenters also request the billing process for E1399 and Goods and Services change to remove the Case Management agency. Several commenters recommend removing case management agencies from the process and for Medicaid to work with the providers directly. The commenters would like more transparency with this process regarding the amount covered by Medicaid for each good/service. Two commenters request DMS allow gym memberships to be covered by goods and services.	DMS does not plan to change the annual limit on Goods and Services at this time. DMS will determine whether or not to adjust service limits in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All limit changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Goods and Services and Consultative Clinical and Therapeutic Definition)	
CS43	Providers	**SCL - Consultative Clinical and Therapeutic (CCT) Services**: Several commenters request DMS permit CCT to be billed concurrently with other services such as community access, supported employment and ADT. Commenters claim concurrent billing is necessary for behavioral specialists.	DMS agrees that best practice dictates CCT should be delivered alongside other services and will change waiver language allow for concurrent billing. DMS will also adopt the commenter's recommendation to increase the limit for CCT and remove it from exceptional supports. The definition of CCT in the amended 1915(c) HCBS waiver applications released in March 2019 includes nutritional services.	Appendix C: Participant Services (Consultative Clinical and Therapeutic Services Definition)	Increase CCT limit and remove from exceptional supports; remove language from CCT saying it cannot be billed concurrently.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		Several commenters recommend increasing the yearly unit limit from 160 to 320 units per year and remove the exceptional supports process for CCT. Several commenters recommend including nutritional services under the CCT service. Two commenters recommend CCT include art, play and pet assisted therapies. A commenter recommends defining Positive Behavior Specialist in regulation.	DMS does not plan to expand the definition of CCT to include play and pet-assisted therapies at this time. DMS will include the definition of Positive Behavior Specialist in the updated SCL Kentucky Administrative Regulation as well.		
CS44	Caregiver and Providers	**All Waivers except MWII – Non-specialized Respite:** Several commenters asked DMS to allow paid caregivers to use respite services or exceptions to be made for special circumstances (i.e., single parents) and also requested clarification of the DMS meaning of "primary caregiver" and "unpaid caregiver". Several commenters requested DMS track respite limits by LOC year, not calendar year under Michelle P. One commenter is concerned that the monetary limit on respite under Michelle P. leaves these funds vulnerable to fraud because the participant or their representative do not know how much the respite care worker is billing Medicaid. One commenter requests respite be concurrently billed with other services.	It is possible for a paid caregiver to receive Non-Specialized Respite services as long as they are not also the worker being paid to provide respite. DMS will clarify the definition of Non-Specialized Respite. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS changed all annual limits to be tracked using the level of care (LOC) year rather than the calendar year. DMS regularly monitors Non-Specialized Respite providers for cases of fraud, waste and abuse. If you suspect fraudulent behavior by a provider, the Office of the Inspector General at 1-800-372-2970. DMS does not believe it is necessary to bill Non-Specialized Respite concurrently with other services. Non-Specialized Respite is	Appendix C: Participant Services (Non-specialized Respite Definition and Limitations)	Update language on unpaid caregivers in Non-Specialized Respite; Clarify language on where Non-Specialized Respite services can be delivered.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		One commenter recommended respite be allowed in the community, as well as at home.	intended for caregiver relief and does not need to occur simultaneously with other services. Non-Specialized Respite can be provided in the same day as other services, just not at the same time. DMS does not prohibit Non-Specialized Respite from being delivered outside of the home nor in the community. DMS will update waiver language to clarify this.		
CS45	Provider	**Personal Assistance** One commenter recommends updating the HCB provider qualifications for Personal Assistance to match the provider qualifications of SCL and Michelle P. for consistency across waivers and to allow medical providers to offer the service. Commenters are concerned that the language in Michelle P. and SCL regarding service participants under 21 would result in a reduction of services and were unclear about the personal assistance offered under EPSDT.	In the amended 1915(c) HCBS waiver applications release in March 2019, DMS updated the provider qualifications for Personal Assistance to make them standard across all waivers. It is not the intention of DMS to reduce services for MPW and SCL waiver participants younger than 21. DMS will clarify this by updating waiver language on the use of the EPSDT benefit.	Appendix C: Participant Services (Personal Assistance Definition)	Update EPSDT language in Personal Assistance definition to make it clearer.
CS46	Provider	**HCB - Personal Care:** One commenter recommends adding personal care to the HCB waiver.	Personal care is provided in the HCB waiver. The service is listed in the amended HCB waiver application as Personal Assistance when it is delivered by a traditional service provider and as Home and Community Supports when it is provided by a Participant Directed Services (PDS) employee.		
CS47	Caregiver, Advocates and Providers	**All Waivers Except MWII - Behavior Supports/Behavioral Services:** Several commenters recommend Behavioral Supports be billable concurrently with other	DMS agrees there are instances where it is appropriate for Positive Behavior Supports to be billed concurrently with other services and will update the amended 1915(c) HCBS	Appendix C: Participant Service (Behavior	Change Positive Behavior Supports / Planning to allow for concurrent billing

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		services. **ABI / ABI - LTC - Behavioral Services:** Two commenters suggest a participant signature (and the guardian when necessary) should be included when the behavior support plan is submitted to the BIC/HRC. Likewise, a participant should be included in the training of staff on the behavior support plan, when appropriate. Furthermore, agencies are required to follow a behavior plan, even if they do not agree with its practices. Another commenter recommends that behavior services allow for behavioral specialists to work one-on-one with participants. **MPW and SCL - Positive Behavior Coach (PBC):** A commenter disagrees with the statement: "This service is provided under the direction of the behavioral support specialist who completed the participant's positive behavior planning", as there is often turnover in this role. Recommend that it be under the supervision of the current positive Behavior Support provider. Additionally, several participants need Coaches to collaborate with psychologists, nutritionists and behavioral supports specialist. The current language is limiting. The description of consultative services makes it sound like PBC could be supervised by any licensure eligible to provide consultative clinical	waiver applications. It is important to note, the concurrent billing will only be allowed when the service is being used for training, observation, or development of the behavior support plan. This service will receive a review from DMS or its designee prior to delivery. DMS also agrees participants should be involved in the process of developing a Behavior Support Plan, when they are able. The Behavior Support Plan should be discussed during the person-centered planning process and include all members of the person-centered team. This includes a representative from any agency that will be providing services to the waiver participant. All parties involved in delivering the service should understand and follow not only the Behavior Support Plan, but the PCSP as well. The understanding of all parties, including the waiver participant, should be documented with a signature once the PCSP is complete. Behavioral health services for substance use disorders or mental illness are available through Kentucky's state Medicaid program. Upon reviewing the definition for Positive Behavior Coach, DMS determined it will make the following changes to the amended 1915(c) HCBS waiver applications. **MPW and SCL**	Support, Behavioral Services Definitions); Appendix D: Person-Centered Planning	Change name of Positive Behavior Coach to Personal Coach in SCL Update definitions to include additional responsibilities for the Personal Coach in SCL and who can provide services. Add language on the IDEA act to all behavior-related services in MPW and SCL Allow concurrent billing on Positive Behavior Supports in MPW

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		and therapeutic services, which could include a licensed dietitian. However, the PBC services work under the direction of the behavior support specialist. The commenter recommends clarifying who is authorized to monitor and supervise the PBC. One commenter also recommends including nutritional services and monitoring the nutritional plan under PBC. One commenter recommended adding "Is responsible for training a participant, family, guardian, natural and unpaid supports, and other members of the person-centered team when barriers challenge the success of the participant in achieving his or her goals." to the list of PBC responsibilities. **SCL and MPW - Positive Behavior Support / Planning:** A commenter recommends behavior support plans be updated when "clinically relevant and appropriate" rather than annually. A commenter requests clarification regarding the "educational services" provided under positive behavior support planning, especially for children that work with teachers and aides. (covered under coaching). A commenter recommends using a $33.25 per unit rate rather than a lump sum (covered under coaching).	• Add IDEA act language to all behavior-related services so it is clear the service allows for observation of a waiver participant in school-based settings. **MPW Only** • Change Positive Behavior Supports language to reflect behavior support plans should be evaluated annually. • Allow Positive Behavior Supports to be billed concurrently with other services. • **SCL Only** ○ Change the name from Positive Behavior Coach to Personal Coach. ○ Add commenter's suggested language about the Personal Coach responsibilities to the definition: "Is responsible for assisting a participant, family, guardian, natural and unpaid supports, and other members of the person-centered team when barriers challenge the success of the participant in achieving his or her goals		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		A commenter recommends adding monitoring and ongoing planning to the Positive Behavior Support/Planning definition.	○ Ensure the Personal Coach definition allows all professionals under Consultative Clinical and Therapeutic Services (CCT) to supervise the service. ○ Change definition to say the service is provided under the direction of the specialist identified on the PCSP for CCT. DMS does not plan to change the billing for Positive Behavior Supports/Planning at this time. The billing of all services may be reassessed after the 1915(c) HCBS Rate Methodology Study is complete.		
CS48	Participant, Caregiver, Advocates, and Provider	**Supported Employment:** Commenters recommend adding supported employment to the HCB waiver. For waivers that already offer supported employment, commenters recommend the following: 1. Provide one service authorization for all stages of supported employment so the participants can move from stage to stage seamlessly. 2. Add supported employment supervisor qualifications and requirements (currently in regulation) 3. Providers delivering work incentives counseling	Service authorization processes and Supported Employment supervisor qualifications will be included in Kentucky Administrative Regulations, provider manuals and service manuals. The provider requirements in the amended 1915(c) HCBS waivers released in March 2019 include DMS approved training. DMS is not adding services during phase one of 1915(c) HCBS waiver redesign. DMS will determine whether or not to adjust service offerings in phase two following the completion of the 1915(c) HCBS Rate Methodology Study. All service additions will	Appendix C: Participant Services (Supported Employment Definition, Limitations and Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		should by certified Community Partner Work Incentive Counselors and pass all the training requirements offer by Virginia Commonwealth University and complete continuous education training. The commenter also recommends this time be billable to the Medicaid. 4. Supported employment should include benefits counseling, so participants understand how earnings may impact their lives. 5. Add "complete DMS approved Supported Employment training" to provider requirements.	be subject to waiver budget neutrality requirements.		
CS49	Providers	**All Waivers Training:** Several commenters request DMS remove the requirement for annual provider training. Commenters claim training in the past has been burdensome and "not a quality use of time". Commenters believe training is expensive, challenging to schedule, and challenging to track. Furthermore, commenters argued that professional licensing training should be sufficient. If DMS chooses to require provider training, the commenters recommend the following: 1. Exempt licensed professionals that fulfill continuous education requirements 2. Exempt employees from the first year because training is included in new hire training 3. Provide training through the College of Direct Supports, which is free to providers 4. Allow providers to bill for training time and administrative costs 5. Provider more practical, rather than philosophical training so providers know how to	DMS intends to develop waiver training for providers that will assist them in meeting requirements. DMS does not intend to offer exemptions. Due to the vulnerable state of waiver participants, DMS believes training is necessary for the safety of participants and quality of care. Waiver training for new hires fulfills the yearly training requirement and they would not need to be trained again until the next year. DMS will change the waiver to reduce the burden of yearly trainings. Providers will be required to hold waiver trainings annually and can then monitor for competency. DMS intends to determine which trainings need to be completed annually and which can be monitored for competency. DMS or its designee can require any full waiver trainings to be provided again. DMS is exploring its options for waiver training platforms that will be free for providers. DMS is also taking	Appendix C: Participant Services (Provider Qualifications)	Providers to be required to hold trainings annually then monitor for competency.

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		response in a crisis. Some comments disagree with the commenters above and request more intensive training requirements for providers who have never provided services in KY before or have never served the waiver populations.	steps to ensure all waiver trainings offered are practical and helpful for providers. DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. The Rate Methodology Study will take into account all provider costs, including administrative costs that would significantly impact the use of staff time and incur additional costs for providers. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements.		
CS50	Providers	**SCL - Residential:** Several commenters state: "Residential providers do not have the resources available to meet the requirement for "provision for or arrangement for necessary medical and health care services integral to meeting the daily and overall healthcare needs of the participant", and Home Health and Private Duty Nursing are not realistic options due to the limiting eligibility criteria for each of these provider types.	DMS is actively developing ways to expand the provider network but also expects residential providers to provide services as defined to the waiver population. DMS is working to improve in-home coverage through the state Medicaid program.	Appendix C: Participant Services (Residential Support Services Level I and II Definitions)	
CS51	Providers and advocates	**Michelle P. and SCL - Day Training:** Commenters recommend that ADT should be allowed to be participant directed, permit concurrent billing and allow 1:2 or 1:3 ratios. Additionally, the commenters state that some	DMS does not require a participant to staff ratio for Day Training at this time. DMS is aware of the need to grow the Day Training provider network, however, DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign.	Appendix C: Participant Services (Day Training Limitations)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		people with exceptional support needs cannot find an ADT that meets their needs due to their struggle in group settings – allowing PDS day training with potential for exceptional supports rate would give them an alternative to traditional providers.	The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements. Currently, the Supports for Community Living Waiver (SCL) waiver provides for exceptional support rates for ADT. DMS will also evaluate the exceptional supports rate structure through the Rate Methodology Study. Lastly, DMS is not considering making ADT a PDS service. DMS monitoring activities of this service are more reliable under the traditional delivery model.		
Case Management					
CM1	Caregiver	**Case Manager Retention and Support:** One comment offered recommendations to increase case management retention including the following: 1. Mandatory salary minimums for "individuals performing the oversight of services in order to ensure retention of qualified personnel". 2. Case Management Agencies should be required to provide the best possible technology to the case managers to ensure that their job duties may be	DMS agrees that case management retention is a concern, however, DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services (Case Management Definition, Limitations and Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		performed as they are on the road traveling over 50% of their time. 3. The current state-wide discrepancies in agency regulation in terms of salary and standardized delivery of services needs reviewed at this time to ensure improvement of the overall experience of participants.	DMS sets a standard maximum rate for each service but is unable to require a provider to follow a certain business model. DMS is continuously evaluating the current system for potential enhancements.	Appendix D: Participant-Centered Planning and Service Delivery	
CM2	Providers and Caregiver	**Carewise:** One commenter said removing third party authorization vendors will make the system more responsive to participants needs. It will also give the case managers more freedom to adjust units rather than request more than what is needed to save time in the approval process.	DMS appreciates your comment.		
CM3	Provider	**Case Management Implementation:** One commenter believes that standardizing service names and definitions will lead to unnecessary paperwork and changes in the job for case managers and PDCMs.	The intention of standardizing service names and definitions is to provide greater consistency for case managers and PDCMs, especially those who work with participants on multiple waivers. DMS is reviewing required forms as waiver redesign changes are implemented for increased efficiency.	Appendix C: Participant Services (Service Definitions) Appendix D: Participant-Centered Planning and Service Delivery	
CM4	Participant, Advocate, and Provider	**Case Management Quality:** One commenter stated: “Case management quality is something that should be improved upon. Our local CMHC	DMS is developing a case manager training program which will include training on rights and responsibilities and service offerings. DMS is preparing a participant guide, with information about waiver programs, roles and responsibilities and services. This will be	Appendix C: Participant Services (Case Management	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		provides case management . . . and there have been many issues in the past with all Case Managers who have been the assigned Case Manager for us and many other participants we know. Issues range from budget shorting, not educating the Participant or representative of their rights, and not educating them about what services they may be eligible for under the PDS option. We have had a total of 6 case managers in an 8-year period. Turnover rates vary from months, to years. Our latest case manager thankfully has been excellent, but prior to this, case managers have been uneducated on a variety of things regarding the Waiver, the services that are covered under the waiver, and participants rights."	provided to all participants and available online to the public. In the amended 1915(c) HCBS waiver applications released in March 2019, DMS expanded ABI and MPW to allow case managers from Certified Waiver Case Management Agencies, in addition to Area Agencies on Aging (AAA) and Community Mental Health Centers (CMHCs), to provide case management. This will increase choice and conflict-free case management. DMS is considering a similar structure for HCB in the future.	Provider Qualifications) Appendix H: Quality Improvement Strategy	
CM5	Providers	**Case Manager Qualification:** Two commenters suggested changing the one (1) year experience working with the waiver population. The commenters noted that experience can come from volunteer work such as peer support networks or a family connection, not a paid working environment.	DMS appreciates your comment and recognizes that some experience can be gained from alternative environments. The case management role can be complex and requires several skills to adequately perform. We recognize that experiences comes from a variety of sources including both paid work and volunteer work and consider it as fulfilling the requirements set for case managers.	Appendix C: Participant Services (Case Management Provider Qualifications)	
CM6	Providers	**CM Billing for Goods and Services:** Several commenters recommended changing the billing mechanism for services such as Goods and Services, Assistive Technology, and Environmental and Minor Home Modifications to eliminate case management agencies as a middle man. Options	Waiver services are required to be delivered by a Medicaid waiver-approved provider. In a number of instances related to Goods and Services, Assistive Technology and Environmental and Minor Home Modifications (i.e. purchasing goods from a retail store), the only approved provider is the		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		suggested including paying providers directly or qualifying case management agencies to deliver the service.	case manager. Additionally, the need for Goods and Services, Environmental and Minor Home Modifications, or Assistive Technology should be determined during the person-centered planning process which is facilitated by the case manager. It is unlikely the vendors or contractors used for these services would be involved in the person-centered planning process.		
CM7	Caregiver and Providers	**CM Caseload:** Several commenters requested DMS implement case management caseload caps, so case managers may spend sufficient time with each participant.	DMS does not include caseload caps in its waiver application. Caseloads are managed at the provider level,		
CM8	Caregiver and Providers	**CM Information Sharing:** To promote effective documentation, communication and information sharing among all elements of the care team, commenters recommend that the Case Manager coordinates the integration, documentation and sharing of relevant information to all members of the care team, including the Service Provider, the individuals' family members and friends involved in their care and DMS.	As indicated in Appendix D-1.c, the person-centered planning team includes the participant, providers and any person identified by the waiver participant. Appendix D-1 c.d. requires all individuals participating in the Person-Centered Service Plan (PCSP) development and execution to sign the PCSP to indicate their involvement and understanding of the PCSP's contents. DMS is looking at ways to improve access to the Medicaid Waiver Management Application (MWMA) for direct service providers as well to help facilitate better communication and information sharing among each waiver participant's person-centered team.	Appendix D-1-c. Supporting the Participant in Service Plan Development	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CM9	Participant, Caregiver, Advocate, and Provider	**CM Provider Qualifications:** Several commenters were confused about the provider qualifications for case managers and PDS case managers. They recommended clarifying the qualifications and expanding the provider network to support freedom of choice. Specifically, commenters recommended permitting traditional case management agencies to deliver PDS case management and ensure PDS case management includes existing case management agencies beyond Areas on Aging and Community Mental Health Centers will continue to deliver the service.	The following agencies may render case management in each waiver: **ABI (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **ABI LTC (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **MPW (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **SCL (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **HCB (Traditional):** Certified Waiver Case Management Agencies **HCB (Participant Directed Services):** Community Mental Health Centers (CMHCs) and Area Agencies on Aging (Known as AAAs, AAILs, AAADs).	Appendix C: Participant Services (Case Management Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			In the amended 1915(c) HCBS waiver applications released in March 2019, individuals known as Support Brokers will become Participant Directed Case Managers (PDCM). In the current HCB waiver, the Support Broker service is billed together with Financial Management Services (FMS). DMS cannot unbundle these services in phase one of 1915(c) HCBS waiver redesign and, therefore, they will continue to be billed together in the amended HCB waiver application. In ABI, ABI LTC, MPW and SCL, Support Broker and FMS are billed separately and will continue to be. DMS will determine if changing CM, PDCM, and FMS is appropriate in phase two of 1915(c) HCBS waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Participant Directed Services (PDS) subpanel is studying FMS responsibilities and will provide feedback to DMS.		
CM10	Provider	**CM Provider Resources and Support:** Commenters were concerned about implementing changes to the case manager and PDCM roles and responsibilities without in-depth tools, manuals, and technical support to properly assist with service planning.	DMS recognizes the need for tools, manuals and technical support and will implement a case manager help desk to provide additional support to CMs and PDCMs. DMS will also define and provide mandatory training and resources, such as tools and guides, to	Appendix D: Participant-Centered Planning and Service Delivery	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			support the role of the CM/PDCM in detailed policy manuals.		
CM11	Provider	**CM Provider Resources and Support:** One provider recommended the case management subpanel discuss the need and possible solutions for case management provider resources. The commenter cited the struggle to find high quality providers who meet the needs of the participants as the impetus of this recommendation.	DMS appreciates your comment and has shared it with the Case Management Advisory Subpanel for their evaluation and suggestions.		
CM12	Providers	**CM Provider Resources and Support:** Two commenters were hopeful that the DMS proposed case management help desk will mean case managers will receive more consistent responses from the Cabinet but were suspicious given the number of sources and other help desks that appear to operate in siloes including Carewise, MWMA, DAIL, DMS, DCBS, OIG, DDID, Social Security, DME, Home Health/Hospice, State Guardianship, Ky. Crisis, HRST and others. The commenters suggested case management agencies with a positive reputation and positive audits be part of the development and training of help desk materials.	Each of the help desks listed in the comment have a specific function. Waiver-specific case management issues will be directed to the case manager help desk once it is up and running. The case management help desk is not part of the waiver application. DMS thanks you for the comments and will take them into consideration as the case manager help desk is designed and implemented. This will happen with stakeholder input, including assistance from our Case Management Advisory Subpanel.		
CM13	Providers	**CM Reporting Requirements**: Several commenters requested DMS remove provider note sheets. The commenters believed participants or their representatives' function as the	While timesheets are important, they are only part of the reporting requirements providers must meet. DMS is tasked with ensuring the health, safety, and welfare of all waiver participants and that the care provided meets		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		employees' supervisor and their timesheet signature serves as an attestation that the work is complete.	the standards set within the 1915(c) HCBS waiver applications and the Kentucky Administrative Regulations. Note sheets will continue to be required in order to achieve this goal.		
CM14	Caregiver and Providers	**CM Reporting Requirements:** Several commenters recommended changing the reporting requirements for case managers including removing required monthly case management notes from MWMA.	A monthly visit is required to monitor participant health, safety and welfare as well as progress to goals. Associated documentation is important as it validates that case managers are providing services according to waiver definition. Documentation requirements will be included in updated documents such as Kentucky Administrative Regulations and in program manuals.	Appendix D-2-a. Service Plan Implementation and Monitoring	
CM15	Providers	**CM Role and Responsibilities:** Several commenters were concerned about case managers, and PDCMs who don't currently deliver CM-like services. Commenters suggested a need for training regarding topics including budgets, service authorization, accessing non-waiver services and family training.	DMS is developing an extensive training curriculum for both CMs and PDCMs, including, service authorization and non-waiver services. If you suspect fraudulent behavior by a case manager, please report it to the Office of the Inspector General at 1-800-372-2970.	Appendix D-2-a. Service Plan Implementation and Monitoring	
CM16	Providers	**CM Role and Responsibilities:** Commenters were concerned that an increased number of required home visits will be challenging for case managers due to increased drive time and heavy caseloads. One commenter suggested	The quarterly home visit will provide the case manager with the opportunity to identify safety issues in the home or living environment which may pose risks to the participant and could impede service delivery.	Appendix D-2-a. Service Plan Implementation and Monitoring	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		home visits be mandatory every six months rather than the current three-month requirement.			
CM17	Providers	**CM Role and Responsibilities:** Several commenters were concerned about the level of responsibility outlined for case managers, specific to the phrase "developing and accessing social networks to provide community inclusion". Commenters suggested this responsibility be transitioned to direct care providers or reinstating/clarifying the role of community guide.	DMS will revise the waiver language to read: "assisting participant to develop and coordinating access to social networks", recognizing that developing a social network is an expanded responsibility.	Appendix C: Participant Services (Case Management Definition)	Update Case Management definition to clarify role in helping participants develop and access social networks.
CM18	Providers	**CM Training and Support:** Commenters recommended PCSP development needs to come with thorough training by the people who developed the tools and the concept of Person-Centered Planning.	DMS training is informed through meaningful input obtained from the Case Management Advisory Subpanel and extensive research into PCSP concepts and leading practices.		
CM19	Caregiver	**Conflict of Interest:** One commenter believes there is a financial incentive for the PDCM to enroll a participant in PDS instead of traditional waiver and should not provide options counseling to avoid a conflict of interest.	DMS thanks you for the comment and continues to review conflict-free case management as 1915(c) HCBS waiver redesign is implemented.		
CM20	Providers	**Conflict of Interest:** Two commenters stated that individuals other than the case manager should be able to initiate discharge off the waivers. Case managers have a	There are a variety of reasons for termination. DMS expects the person-centered team, including the participant, to discuss any plans to discharge from the waiver.	Appendix E-1-l. Voluntary Termination of Participant Direction	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		financial incentive not to discharge people from the waiver.	Participants do have the right request an additional review, either through a reconsideration or an administrative hearing if they believe they have been treated unfairly.	Appendix E-1-m. Involuntary Termination of Participant Direction Appendix F: Participant Rights	
CM21	Providers	**Conflict of Interest:** Two commenters believed case managers being paid to serve participants is a conflict of interest.	Case management will remain a waiver service at this time and DMS will continue to review conflict-free case management as 1915(c) HCBS waiver redesign is implemented.	Appendix C: Participant Services (Case Management Definition)	
CM22	Provider	**Freedom of Choice - Case Management:** One commenter was opposed to expanding the case management agency network and requested "Certified Waiver Case Management Agency" be removed from the waivers.	DMS does not plan to reduce the case management agency network. Expanding the case management network strengthens network adequacy and increases participant choice.	Appendix C: Participant Services (Case Management Provider Qualifications)	
CM23	Providers and Caregivers	**Freedom of Choice - Case Management:** Several commenters requested PDS case management provider qualifications be expanded to include providers other than CMHCs and AAAs, especially current traditional case management agencies. One commenter, a participant, would like to select PDS but fears losing their case management services and has remained in traditional. Commenters continue to be concerned	The following agencies may render case management in each waiver: **ABI (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **ABI LTC (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental	Appendix C: Participant Services (Case Management Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		that CMHCs and AAAs are currently not accepting participants who select PDS.	Health Centers (CMHCs) and Area Agencies on Aging (AAA) **MPW (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **SCL (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **HCB (Traditional):** Certified Waiver Case Management Agencies **HCB (Participant Directed Services):** Community Mental Health Centers (CMHCs) and Area Agencies on Aging (Known as AAAs, AAILs, AAADs). In the amended 1915(c) HCBS waiver applications released in March 2019, individuals known as Support Brokers will become Participant Directed Case Managers (PDCM). In the current HCB waiver, the Support Broker service is billed together with Financial Management Services (FMS). DMS cannot unbundle these services in phase one of 1915(c) HCBS waiver redesign and, therefore, they will continue to be billed		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			together in the amended HCB waiver application. In ABI, ABI LTC, MPW and SCL, Support Broker and FMS are billed separately and will continue to be. DMS will determine if changing CM, PDCM, and FMS is appropriate in phase two of 1915(c) HCBS waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Participant Directed Services (PDS) subpanel is studying FMS responsibilities and will provide feedback to DMS.		
CM24	Providers	**Monthly Face-to-Face Visits:** Commenters requested DMS permit case management visits to be with the participant or with a family member or guardian. The commenter stated that family members and guardians provide valuable input and context to the meetings.	One purpose of the case management visit is to monitor the health, safety and welfare of the participant. Without the participant directly involved in the visit, the case manager is unable to provide appropriate assessment of status. The participant may request others to be present during the face-to-face visit to provide additional input.	Appendix D-2-a. Service Plan Implementation and Monitoring	
CM25	Caregivers and Providers	**Monthly Face-to-Face Visits:** Several commenters requested case managers and participants be permitted to meet in locations most convenient and comfortable for them including at home, in the community or at an adult day care center.	DMS agrees that the participant have choice in the location of the visit, including locations that are convenient and comfortable. DMS requires one quarterly visit at the participant's home to assess the participant's health, safety and welfare in their home or living environment.	Appendix D-2-a. Service Plan Implementation and Monitoring	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CM26	Providers	**Monthly Face-to-Face Visits:** Two commenters were in support of requirement monthly face-to-face case management visits.	DMS thanks you for your comment. We believe the requirement of monthly face-to-face visits builds the relationships between the case manager and the participant and improves monitoring of the participant's health, safety, and welfare.	Appendix D-2-a. Service Plan Implementation and Monitoring	
CM27	Providers	**MWMA Access:** Several commenters requested all providers have access to MWMA to minimize duplicative work.	The waiver application does not discuss MWMA access. DMS is in the process of reviewing MWMA and is looking at ways to improve access for direct service providers.		
CM28	Caregiver and Providers	**One Unit One Month:** Several commenters recommended case management units and limits be one unit per month per participant.	DMS will update the limits on Case Management in the MPW to "Case Management is limited to one (1) monthly unit per participant per provider per month" for consistency with all other waivers.	Appendix C: Participant Services (Case Management Definition)	Update limit on Case Management in MPW
CM29	Caregiver and Providers	**Participant Centered Case Management:** Commenters stated that the case manager should be a collaborative partner in care planning and care plan meetings. They should not lead all efforts. The participant should be in the lead.	DMS agrees that the participant should lead the person-centered service planning effort and be a leader in the overall care planning. Section D-1.c. states: "A person-centered service plan (PCSP) shall be an individualized plan that is led by the participant and the participant's guardian or authorized representative, if applicable."	Appendix D-1-c. Supporting the Participant in Service Plan Development	
CM30	Providers	**Participant Signature:** Some comments identified having participants sign	The content of required forms is not included in the waiver applications. DMS will consider options associated with required forms.	Appendix: D-1-c: Supporting the Participant	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		DMS-approved form on education about ANE as another requirement.		in Service Plan Development	
CM31	Provider	**PCSP Planning:** One commenter stated: "We are required as Case Manager's to send any updated paperwork to the participants within 5 days. Our participants always have access to any paperwork as it's the residential 's responsibility to put it in the record at their home. This is adding more work on Case Manager's having to send the paperwork to the participant."	It is the case manager's responsibility to ensure all individuals on a waiver participant's PCSP are provided with a copy of the PCSP and any other required documentation.	Appendix D-1-d. Service Plan Development Process	
CM32	Providers	**Plan Signature/MAP 116:** Several commenters saw signatures on the PCSP and MAP 116 as duplicative. All providers must sign both and the commenters recommended DMS choose one preferred form.	Thank you for bringing this to our attention. The formats of forms, to include the MAP-116, are not included in the waiver application. DMS is in the process of reviewing all forms and the comment will be considered as waiver redesign changes are implemented.	Appendix D-1-c. Supporting the Participant in Service Plan Development Appendix D-1-d. Service Plan Development Process	
CM33	Providers	**Provider Requirements:** Two commenters requested PDCMs be exempt from annual TB skin testing because they do not provide direct services to the client and it is an additional administrative cost to the agency.	DMS is currently working with the Department for Public Health to review TB screening requirements and will provide more information in future communications.	Appendix C-2-a: Criminal History and/or Background Investigations	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CM34	Providers	**Provider Training and Admin Burden:** Three commenters believe the training requirements for case management agencies is administratively burdensome and ongoing training should only be tied to credential/certification for individuals.	Provider training, including case management training, is common practice across multiple states and is required to ensure consistent case management delivery. Input received from the Home and Community Based Services Advisory Panel (HCBS-AP) and our three topic specific advisory subpanels also substantiated the need for standard training.	Appendix C: Participant Services (Provider Qualifications)	
CM35	Advocates and Providers	**Provider Training:** Several commenters believe that the waiver-specific training outlined in the current revised 1915(c) HCB Waiver is insufficient to aptly deal with waiver participants with Alzheimer's and related dementias. The training covers appropriate topics for use across all waivers but does not include any dementia-specific, dementia-competent training or education. This is particularly problematic if the Case Manager selected has little to no experience in the field (one year of field experience with aged OR physically disabled, for example, would not constitute aptitude in the complex issues present in an individual with Alzheimer's). It is the recommendation of the Association that HCB Case Managers are trained to recognize the signs of dementia and to serve people with dementia in a way that is person-centered, dementia-competent and dementia-specific. The Association recommends HCB Case Managers receive at least, the following training	DMS expects all providers to train or require training for their staff based on any specific target population they serve. All providers need training to help understand individual needs of the participants they service. DMS is also developing mandatory case management training curriculum to include population-specific training requirements. DMS thanks you for your comment and will take it into consideration as part of training development.	Appendix C: Participant Services (Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		topics: a. Dementia, including the progression of the disease, memory loss, psychiatric and behavioral symptoms; b. Communication issues, including behavior as a communication technique; c. Techniques for understanding and approaching behavioral issues; d. Strategies for addressing social needs; e. Specific aspects of care and safety (i.e.: pain, wandering, irritable behavior, etc.); f. Recognizing the signs and symptoms of dementia; and g. The importance of lifestyle behaviors and approaches to brain health. It is the assertion of the Association that when HCB Case Managers are trained and dementia-competent, they are able to value and respect individuals with dementia, to listen to their communication and understand them and be able to understand what is important to the individual.			
CM36	Providers	**Separate CM, PDCM and FMS Definitions and Billing:** Several commenters recommended case management, PDCM and FMS be separate and distinct services, each with their own billing code, to ensure freedom of choice and a quality provider network.	The following agencies may render case management in each waiver: **ABI (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **ABI LTC (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental	Appendix C: Participant Services (Case Management Definition and Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			Health Centers (CMHCs) and Area Agencies on Aging (AAA) **MPW (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **SCL (Traditional and Participant Directed Services):** Certified Waiver Case Management Agencies, Community Mental Health Centers (CMHCs) and Area Agencies on Aging (AAA) **HCB (Traditional):** Certified Waiver Case Management Agencies **HCB (Participant Directed Services):** Community Mental Health Centers (CMHCs) and Area Agencies on Aging (Known as AAAs, AAILs, AAADs). In the amended 1915(c) HCBS waiver applications released in March 2019, individuals known as Support Brokers will become Participant Directed Case Managers (PDCM). In the current HCB waiver, the Support Broker service is billed together with Financial Management Services (FMS). DMS cannot unbundle these services in phase one of 1915(c) HCBS waiver redesign and, therefore, they will continue to be billed		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			together in the amended HCB waiver application. In ABI, ABI LTC, MPW and SCL, Support Broker and FMS are billed separately and will continue to be. DMS will determine if changing CM, PDCM, and FMS is appropriate in phase two of 1915(c) HCBS waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. The Participant Directed Services (PDS) subpanel is studying FMS responsibilities and will provide feedback to DMS.		
CM37	Providers	**Service Authorization:** One commenter was concerned that shifting service authorizations to case managers would give them too much authority over the PCSP.	DMS thanks you for your comment. The practice of case managers authorizing services is consistent with several states' practices. Case managers will receive training and DMS will provide regular oversight and review of the process to ensure proper implementation.	Appendix C: Participant Services (Case Management Definition) Appendix D-1-g. Process for Making Service Plan Subject to the Approval of the Medicaid Agency	
CM38	Caregiver, Advocate, and Providers	**Service Authorization:** Several commenters emphasized the need for objective assessment tools and decision guides if	DMS thanks you for the comment and agrees that appropriate training, tools and supports be provided to case managers. DMS will provide oversight and will also implement a	Appendix D: Participant-Centered	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		case managers will be expected to authorize services in the field. As a supporter of the policy, one commenter was concerned about the inconsistencies across case managers if left to their own devices to make these decisions without guidance. The commenter was also concerned that case manager turnover will contribute to inconsistent service authorization if guides are not provided. Furthermore, case managers will be the frontline defense of this policy and primary communicator to the participant and their families, a tool or guide would help case managers/support brokers convey the rationale and requirements of the policy.	help desk to provide additional support to case managers. This will happen with stakeholder input from our Case Management Advisory Subpanel.	Planning and Service Delivery	
CM39	Providers	**Service Improvement Plan:** Several commenters did not recognize the reference to the service improvement plans (SIPs) and interpreted it as a new requirement for case managers.	The SIP is not a new requirement. This is a current process with Participant Directed Services (PDS). The process was formerly known as a “corrective action plan” (CAP). DMS is expanding the SIP to include traditional service providers.	Appendix E-1-m Involuntary Termination of Participant Direction	
CM40	Caregivers and Providers	**SMART Goals:** Several commenters said that emphasis on “SMART goals” that focus on achievement of ADL skills may not be helpful for the waiver population. Commenters believed that many participants' goals cannot be measured using the SMART goal framework such as progressive conditions such as dementia, or a participant's goals are focused on quality of life rather than measurable health improvements.	The use of SMART goals (Specific, Measurable, Attainable, Relevant, and Time-Bound) is a leading practice of case management. Any goal, even those that are meant to keep a participant stable, can be placed into the SMART format. DMS also recognizes that not all goals are centered on medical improvement with many being related to quality of life. DMS will provide training to support CMs/PDCMs as they begin to develop SMART goals.	Appendix D-1-d. Service Plan Development Process	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CM41	Providers	**Social Network Development:** One commenter, a participant, stated that case managers do not currently assist participants to find natural supports.	Thank you for bringing this concern to our attention. DMS continues to encourage case managers to assist participants in accessing both waiver and non-waiver supports and will take your comment into consideration as part of case manager training and development of policies.	Appendix C: Participant Services (Case Manager Definition)	
CM42	Provider	**Streamline PCSP Planning:** Two commenters stated that the need for modifications to a PCSP can arise suddenly, without notice. Currently, modification start dates can be completed and backed up 14 days to cover services rendered. We feel as case managers, it is important to keep this within the new waiver. New waiver language states services will not be reimbursed if rendered prior to signing acknowledgement of the PCSP. The comment requests this to change.	DMS will take this comment into consideration as regulations and policies are updated.	Appendix D-1-d: Service Plan Development Process	
CM43	Provider	**Streamline PCSP Planning:** One commenter summarized their experience developing person-centered plans as challenging and more likely to be denied or recouped by the Cabinet. From their perspective, PDS plans are more complicated and use more services, they are rejected as fraudulent, which may not be the case. The commenter also notes the more intensive monitoring and plan updates for participants receiving multiple services rather than one service,	DMS appreciates your comment. DMS is developing an extensive training curriculum, as well as tools and resources for both CMs and PDCMs to improve person-centered planning. The 1915(c) HCBS Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers, including case managers. DMS will determine how to adjust		

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		i.e. residential. The commenter said there is no incentive for case managers to change their performance or processes under the changes in the waiver application and it will be challenging to implement, especially without a new rate. The incentive is to get the plan developed and avoid penalties resulting in a provider focused service planning rather than person-centered. The commenter recommends an incentive driven rather than penalty driven model of case management	reimbursement rates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements DMS is also evaluating the feasibility of using value based payments (VBP) and will determine if it is right for Kentucky at a later date.		
CM44	Caregiver and Providers	**Streamline PCSP Planning:** Two commenters requested the PCSP planning process be revised so the plans can be easily changed to meet participants' needs. One commenter explains that while waiting for new goals and objectives to be approved the participants must use the old objectives that may not apply. The commenter recommended simplifying the process, so participants can access appropriate services to meet goals more quickly.	The case manager will now be responsible for the approval of selected services, which is anticipated to improve timely access to services.	Appendix D-1-c. Supporting the Participant in Service Plan Development Appendix D-1-d. Service Plan Development Process	
CM45	Provider	**Streamline PCSP Review:** One commenter recommended skilled therapists review the PCSP to improve comprehension of therapeutic interventions implemented and altered to achieve the maximum amount of progress and limit inappropriate denials that interrupt therapy service and halt progress.	DMS or its designee, which includes clinical staff, will authorize therapies and will provide oversight and review of PCSPs with staff appropriately trained and qualified to perform the review.	Appendix C: Participant Services Appendix D-1-g. Process for Making Service Plan Subject to the Approval of the Medicaid Agency	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
CM46	Provider	**Streamlining PCSP Meetings:** One commenter stated the following: "Requiring meetings to order supplies or renew a service that expires every 3 months is unnecessary. It is extremely difficulty to coordinate up to 10 team member's schedules just for the CM to order briefs and renew a service that expired in 3 months that essentially just got started. Providers cannot bill for these meetings and pay employees out of pocket to attend. . . Meetings are absolutely needed in many cases but not in all. If the requirement will remain the same, all providers should be eligible for a flat-rate reimbursement for attending. "	DMS will address this commenter's concern via service authorization training for case managers. DMS is not adding any new payments during phase one of 1915(c) HCBS waiver redesign. DMS will consider any adjustments to payments in phase two after completion of the 1915(c) HCBS Rate Methodology Study. The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. All payment changes will be subject to waiver budget neutrality requirements.	Appendix D-1-d. Service Plan Development Process	
Participant Directed Services					
PDS1	Caregivers, Provider, and Advocates	**Legally Responsible Individual (LRI) – Strictness:** The majority of comments concern the Participant Directed Services employee policy for relatives and legally responsible adults. Many make a general comment that the circumstances for participants and LRIs to be PDS employees are too restrictive	The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Technical Assistance Manual v3.5, p109).	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
				Furnished by Relatives/Legal Guardians	
PDS2	Caregiver	**LRI Policy - All Criteria:** Commenters were confused regarding the qualifications to be a legally responsible adult and a PDS worker. Several commenters were confused if legally responsible adults must meet all the criteria described in the application or one of the criteria.	DMS is aware the approval criteria for LRIs as PDS employees is complex. The Frequently Asked Questions (FAQ) document for the Medicaid 1915(c) Waiver Redesign Project is routinely updated and DMS will develop additional educational materials as needed to address concerns about the policy.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS3	Caregivers and Providers	**LRI Policy - Employment Status** Commenters were confused about the criterion regarding the legally responsible adult's current employment status. Many interpreted this policy as holding another job disqualified you as a possible PDS employee.	Holding another paid position does not exclude a legally responsible individual from approval as a PDS employee.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
				Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS4	Caregivers and Providers	**LRI Policy - Quality of Care and Provider Accessibility:** Several commenters did not support adding criteria for legally responsible adults at all or endorsed the standard to be that the employee has the best interest of the participant in mind and that parents provide the best care. Commenters stated that parents are accessible any time of day unlike employees outside the home.	Waiver participants can still hire legally responsible individuals, such as parents; however, the individual must be approved by DMS. CMS allows states the choice on whether to prohibit or allow employment of LRIs within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." CMS allows states to define extraordinary care to best serve their waiver populations. (CMS 1915(c) Technical Assistance Manual v3.5, p109).	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	None
PDS5	Caregivers	**LRI Policy - LRI Elimination** Several commenters interpreted the amendments as eliminating legally responsible adults as PDS employees.	DMS continues to allow LRIs to become PDS employees if they meet the approval criteria.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals Appendix C-2-e. Other State	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
				Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS6	Participant and Caregivers	**LRI Policy - Primary and Secondary Caregiver Definition:** Commenters were also confused by the "secondary caregiver" policy, the definition of "primary caregiver" and "secondary caregiver" and if caregivers who are disabled themselves would qualify as "secondary caregivers" to a participant.	DMS plans to draft and release a one-page "What Does This Mean to Me" document specifically about PDS that will provide clarification.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	None
PDS7	Participant, Caregivers and Providers	**LRI Policy - Freedom of Choice:** Commenters were concerned the policy would limit participants' freedom of choice and ability to make independent decisions regarding their care	Participant Directed Services are founded in person-centered thinking and planning. DMS supports waiver participants' freedom of choice, which is why the agency elected to continue allowing LRIs to apply to become PDS employees. However, DMS must place criteria which defines when an LRI may become a PDS employee. The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Instructions, Technical Guide and Review Criteria v.3.6, page 108.) https://wms-mmdl.cms.gov/WMS/faces/portal.jsp	Relatives/Legal Guardians	
PDS8	Caregivers and Providers	**LRI Policy - LRI Elimination for Adults**: Commenters interpreted the policy as mandating PDS employees to be unrelated to the participant, if the participant is an adult. Commenters were concerned that not tapping into the personal networks of participants to provide services would put them at higher risk of institutionalization.	The policy allows for any individual who meets the provider requirements for the PDS service to be employed by a PDS participant. However, to align with CMS guidance, legally responsible individuals must go through an additional approval process.	Appendix C: Participant Services (Provider Qualifications), Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS9	Caregiver	**LRI Policy - Michelle P Settlement Terms:** One commenter was concerned that eliminating legally responsible adults as PDS workers would be in violation of the Michelle P. settlement.	DMS continues to allow LRIs to become PDS employees if they meet the approval criteria. DMS has no intent to eliminate this option, only to better clarify when employing LRIs is appropriate. Participant Directed Services are founded in person-centered thinking and planning. DMS supports waiver participants' freedom of choice, which is why the agency elected to continue allowing LRIs to apply to become	Appendix C: Participant Services (Provider Qualifications) Appendix C-2-d. Provision of Personal Care or Similar Services by	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			PDS employees. However, DMS must place criteria which defines when an LRI may become a PDS employee. The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Technical Assistance Manual v3.5, p109).	Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS10	Caregiver and providers	**LRI Policy - Single Parents:** Several commenters are single parent caregivers and are concerned about how the new legally responsible individual policy will impact their status as a PDS employee	DMS continues to allow LRIs to become PDS employees if they meet the approval criteria. DMS has no intent to eliminate this option, only to better clarify when employing LRIs is appropriate. Participant Directed Services are founded in person-centered thinking and planning. DMS supports waiver participants' freedom of choice, which is why the agency elected to continue allowing LRIs to apply to become PDS employees. However, DMS must place criteria which defines when an LRI may become a PDS employee.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Technical Assistance Manual v3.5, p109).		
PDS11	Caregivers	**LRI Policy - Religious Beliefs:** Commenters were curious about whether they would qualify for the religious belief criterion or believed that the criterion was insufficiently written and leaves DMS open to abuse of the policy	DMS PDS policy reflects the commitment to person-centered thinking and planning when interpreting policy. A participant who believes they would qualify for this criteria would submit an attestation to DMS.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians.	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PDS12	Caregivers	**LRI Policy - Multiple Participants:** Commenters with two children with special needs recommended making changes to the LRA PDS worker policy to allow parents who care for multiple waiver participants to be LRA PDS workers.	DMS PDS policy does not prohibit PDS providers, including LRI PDS employees, from serving more than one participant; however, an LRI cannot provide services to more than one participant at the same time. Requirements will be included in the updated Kentucky Administrative Regulations and program manuals.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	
PDS13	Caregiver	**LRI Policy - Conflict of Interest:** Two commenters did not agree with the Cabinet's conclusion that LRAs have a financial stake as a PDS worker	Any provider, PDS or traditional, that is paid by Medicaid funds to provide a service, has a financial stake in the provider-participant relationship. When the provider is PDS employee who is also legally responsible for the participant, this adds a potential conflict of interest. CMS allows states the choice on whether to prohibit or allow employment of LRIs within PDS. Kentucky has determined it is in the best interest of our 1915(c) HCBS waiver participants to allow this practice to continue, however, CMS requires the state provide criteria which an LRI must meet before hire in order to monitor those potential conflicts.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS14	Caregiver	**LRI Policy - Freedom of Choice:** Commenter argued that a payable service is a payable service regardless of who is providing the service.	DMS must comply with CMS guidance and regulations related to LRIs as PDS employees. If a participant hires an LRI as a PDS employee, DMS is required to establish	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			criteria and follow through with applying those criteria.	Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS15	Caregivers and Advocates	**LRI Policy - Implementation:** Several commenters requested information regarding the implementation plan of this policy – primarily, if existing PDS workers would be able to continue as employees (i.e. grandfathered in).	Plans for implementing the DMS policy on LRIs as PDS employees remain under development. DMS will provide further clarification during the statewide town hall tour in June 2019. You can find more information about the town halls here: https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf Additionally, DMS will educate stakeholders on implementation through posts to the Division of Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx), letters, and educational documents before updates take effect.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PDS16	Participants and Caregivers	**LRI Policy - Trust and Provider Retention:** Many commenters expressed the challenge of finding a trustworthy care worker who will stay employed by the participant for an extended period of time. Several caregivers were concerned about the health, safety and welfare of participants with PDS workers outside the family. Additionally, many commenters who have found qualified providers outside the family said workers leave for another job or school.	DMS shares the concerns expressed related to direct service workforce challenges. Employee turnover, proper training, and caregiver reliability are well-documented challenges in the direct service workforce across the nation. DMS chose to continue allowing LRIs as PDS employees to increase participant access to reliable caregivers.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS17	Caregivers and Providers	**LRI Policy - Conflict of Interest and Parent Responsibility:** Several commenters expressed objections to allowing legally responsible adults as PDS employees. The commenters stated that these services were the moral and legal obligation of the legally responsible adult. One commenter also believed the LRI PDS policy should apply to all individuals hired to take care of participants.	DMS accounts for parental obligations to care for a minor child within the policy for allowing an LRI to be approved as a PDS employee. The LRI must demonstrate the participant requires *extraordinary care,* which is care that exceeds the amount of care required by a peer without a disability. Only after this determination is made can an LRI be considered for PDS employment. Once the LRI is approved for PDS employment, they must meet the individual provider requirements for approved waiver services. DMS revised and standardized provider requirements in the amended 1915(c) HCBS waiver applications released	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			in March 2019 to require training for all PDS employees, however, PDS employers can determine the certifications, such as CPR or First Aid, a PDS employee needs. The updates are designed to allow PDS employers more flexibility in the person-centered planning process. Should an LRI meet all the provider requirements for Community Living Support services, and the service is required by the person-centered service plan (PCSP), the service may be delivered by any eligible and willing provider.		
PDS18	Caregiver	**LRI Policy – Conflict of Interest and Parent Responsibility** One commenter was concerned with the number of parents receiving payment for Community Living Support services. The Commenter believes it is the responsibility of being a parent to take your child out into the community. The commenter recommended parents / LRAs be unable to provide Community Living Support.	DMS accounts for parental obligations to care for a minor child within the policy for allowing an LRI to be approved as a PDS employee. The LRI must demonstrate the participant requires *extraordinary care,* which is care that exceeds the amount of care required by a peer without a disability. Only after this determination is made can an LRI be considered for PDS employment. Once the LRI is approved for PDS employment, they must meet the individual provider requirements for approved waiver services. DMS revised and standardized provider requirements in the amended 1915(c) HCBS waiver applications released in March 2019 to require training for all PDS employees, however, PDS employers can determine the certifications, such as CPR or First Aid, a PDS employee needs. The	Appendix C: Participant Services (Provider Qualifications) Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			updates are designed to allow PDS employers more flexibility in the person-centered planning process. Should an LRI meet all the provider requirements for Community Living Support services, and the service is required by the person-centered service plan (PCSP), the service may be delivered by any eligible and willing provider.		
PDS19	Caregivers	**LRI Policy - Extraordinary Care:** Several commenters were confused by the CMS terminology and definition of "extraordinary care". Commenters understood it to mean excellent quality of care.	DMS currently defines *extraordinary care* as care which exceeds that necessary of an age-matched peer without a disability, whether an adult or a child. This refers to an individual who requires more support to complete activities of daily living, such as eating, dressing, and bathing, than someone of a similar age.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals.	
PDS20	Caregivers and Advocates	**LRI Policy - Recertification:** Some legally responsible adults said when they applied to be a PDS worker, they were told they would never have to reapply or be recertified. These commenters were concerned about filing new forms and recertification requirements.	Plans for implementing the DMS policy on LRIs as PDS employees remain under development. DMS will provide further clarification during the statewide town hall tour in June 2019. You can find more information about the town halls here: https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf Additionally, DMS will educate stakeholders on implementation through posts to the Division of Community Alternatives website (https://chfs.ky.gov/agencies/dms/dca/Pages/	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			default.aspx), letters, and educational documents before updates take effect.	Furnished by Relatives/Legal Guardians	
PDS21	Caregiver	**LRI Policy - Implementation:** One commenter said that if there are changes to the LRA criteria, parents will need more training, including classes and CPR certification, to have the knowledge to help their participant.	DMS revised and standardized provider requirements in the amended 1915(c) HCBS waiver applications released in March 2019. The updates allow PDS employers to determine how much training a PDS employee needs and whether he or she must be certified in CPR and/or First Aid. The updates are designed to allow PDS employers more flexibility in the person-centered planning process.	Appendix C: Participant Services (Provider Qualifications) Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	None
PDS22	Caregivers	**LRI Policy - Professional Qualifications:** Some commenters urged DMS to consider making exemptions to the LRI PDS employee policy if the LRI has a degree in the field e.g. an RN.	The purpose of the LRI approval process is to determine if the participant meets the *extraordinary care* criteria and if non-LRI providers are unavailable. The criteria looks at the participant's needs rather than the	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			professional qualifications of the potential employee.	Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS23	Caregivers	**LRI Policy - Regression:** Commenters were concerned that if they were no longer able to provide PDS services to their relative, the participant's progress would regress due to the change in routine.	Participant Directed Services are founded in person-centered thinking and planning. DMS supports waiver participants' freedom of choice, which is why the agency elected to continue allowing LRIs to apply to become PDS employees.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS24	Caregivers and Providers	**LRI Policy - Status Quo:** Several commenters requested the waivers	Changes to PDS policy are designed to update the policy to reflect the current CMS standards within participant-directed services	Appendix C-2-d. Provision of Personal Care	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		approach to PDS not change at all but did not specify any recommendations.	and to apply these standards across all waivers which allow PDS.	or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS25	Caregivers	**LRI Policy - Backend Monitoring:** Commenters recommend using existing monitoring and audit policies to identify fraud or inappropriate actions by LRI PDS employees instead of approving LRIs beforehand	DMS currently monitors and audits PDS providers, as required by CMS, and will continue to do so after the 1915(c) HCBS waiver redesign process. CMS policy requires DMS to develop and maintain policy related to approving LRIs applying to become a PDS employee. DMS will continue to comply with this requirement. Changes to PDS policy are designed to update policy to reflect the current CMS standards within participant-directed services and to apply these standards across all waivers which allow PDS.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PDS26	Caregivers	**LRI Policy - Communication Needs:** Commenters believed the behavioral and communication needs and the participant's level of comfort with individuals outside their family would prevent them from hiring someone else and therefore LRIs should be able to serve as PDS employees.	DMS acknowledges this, which is why DMS allows LRIs to become PDS employees. The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Technical Assistance Manual v3.5, p109).	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	None
PDS27	Caregiver	**LRI Policy - Recertification:** Commenter suggested that LRI PDS employees be certified on an ongoing basis. Commenters believed that LRI PDS workers should be recertified on a regular basis.	DMS is currently considering the frequency of the approval and/or re-approval process for LRIs who apply to become PDS employees. Plans for implementing the DMS policy on LRIs as PDS employees remain under development. DMS will provide further clarification during the statewide town hall tour in June 2019. You can find more information about the town halls here: https://chfs.ky.gov/agencies/dms/dca/Documents/1915ctownhallannouncement.pdf Additionally, DMS will educate stakeholders on implementation through posts to the Division of Community Alternatives website	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			(https://chfs.ky.gov/agencies/dms/dca/Pages/default.aspx), letters, and educational documents before updates take effect.	Relatives/Legal Guardians	
PDS28	Caregivers	**LRI Policy - Financial Stability:** Several commenters noted that families depend on the waiver income as a parent PDS worker to survive financially	DMS acknowledges the challenges families encounter with employment. DMS must establish policies and procedures which are applicable to all waiver participants who choose the PDS option. The Centers for Medicaid and Medicare Services (CMS) allows states the choice on whether to prohibit or allow employment of legally responsible individuals (LRIs) within PDS. If LRIs become PDS employees, CMS requires the state provide criteria which an LRI must meet before PDS employment begins. This requirement informed the development of the LRI criteria. The criteria required by CMS only allows payment of an LRI if the waiver participant requires "extraordinary care." (CMS 1915(c) Technical Assistance Manual v3.5, p109).	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	None
PDS29	Caregivers and Providers	**LRI Policy - Freedom of Choice:** Commenters recommended DMS allow the participant to set requirements for their PDS employees. They stated TB skin test, CPR/First aid, should be removed and left to the discretion of the member/representative	DMS revised and standardized provider requirements in the amended 1915(c) HCBS waiver applications released in March 2019. All individuals hired to care for PDS participants undergo training. The updates allow PDS employers to determine the certifications, such as CPR or First Aid, a PDS employee needs. The updates are designed to allow PDS	Appendix C: Participant Services (Provider Qualifications) Appendix C-2-d. Provision of Personal Care or Similar	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			employers more flexibility in the person-centered planning process. DMS is currently working with the Department for Public Health to review TB screening requirements and will provide more information in future communications.	Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	
PDS30	Advocate	**LRI Policy - LRI Definition:** One commenter applauded DMS for limiting the proposed additional PDS employee criteria to only legally responsible individuals. The commenter also believes this will enhance participant choice and increase access to qualified providers in adherence to the Independence Plus Program (KRS 205.5606). However, for adult participants (age 18 and older), DMS has included legal guardians and other individuals with "legal authority to make decisions on the individual's behalf in the "legally responsible" category. The latter term is not further defined. The CMS 1915(c) Waiver Instructions, Technical Guide and Review Criteria, Release Date: January 2015, expressly states that "legally responsible individuals" do not include parents of adult recipients, including parents who are legal	Payments to LRIs are not eligible for federal financial participation (FFP) under state plan services (42CFR 440.167). 42CFR 441 allows for payments to LRIs under certain circumstances, as defined by the state.	Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals. Appendix C-2-e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians	None

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		guardians. (pp. 108-109). DMS should remove legal guardians and individuals with legal authority from this category and limit the proposed review process and additional criteria to parents of minor children and spouses, as required by federal law.			
PDS31	Provider	**FMA Quality:** One Commenter reported that FMAs are making unreliable payments for PDS work and do not offer direct deposit options.	As part of the overall 1915(c) HCBS waiver redesign, DMS is reviewing provider qualifications, training, and monitoring. DMS will conduct a comprehensive review that includes considering research, best practices, and public comment as it develops minimum standards for providers, including FMAs. Additionally, the PDS Advisory Subpanel is studying FMA responsibilities to help with the development of minimum standards.		
PDS32	Caregivers and providers	**PDS Background Checks and Onboarding Costs:** Several commenters recommended making funding available to assist paying for PDS employee background checks and onboarding costs or waive the fee.	DMS is aware of the cost of pre-employment screenings for PDS workers and is working with stakeholders, including our PDS Advisory Subpanel, to identify funding sources to best address this need.	Appendix C-1/C-3 Provider Specifications (Qualified Participant Approved Provider) Appendix C-2-d. Provision of Personal Care or Similar Services by Legally Responsible Individuals	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PDS33	Participants and caregivers	**Budget Cuts:** Commenters felt that the only reason the reforms were being done is to save the state money	DMS engaged in 1915(c) HCBS waiver redesign to identify opportunities for improvement across all aspects of waiver operations. The redesign process intends to apply these service delivery improvements to maintain or increase the quality of services provided to waiver participants. A reduction in cost is not one of the goals of 1915(c) HCBS waiver redesign. You can find the list of waiver redesign goals in Navigant's final assessment report of the 1915(c) HCBS waivers: https://chfs.ky.gov/agencies/dms/dca/Documents/kyhcbsassessmentfinalreport.pdf		
PDS34	Caregivers and Advocates	**Timesheets**: One commenter encouraged DMS to develop an electronic system for reporting hours for PDS. The commenter believes everyone should be able to use the same convenient online reporting system that other providers use (i.e. traditional home health agencies). Submitting timesheets is an additional burden on families. Another commenter along the same lines, noted an electronic timesheet submission system would reduce the amount of time PDCMs spend processing, correcting, and submitting timesheets.	As part of the overall 1915(c) HCBS waiver redesign, DMS is reviewing provider qualifications, training, and standardization. Additionally, the PDS Advisory Subpanel is studying FMA responsibilities to help with the development of minimum standards.		
PDS35	Providers	**Background and Drug Testing:** Several commenters recommended limiting PDS provider background checks to the AOC registry	DMS revised and standardized provider requirements in the amended 1915(c) HCBS waiver applications released in March 2019.	Appendix C-2-a: Criminal History and/or	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
		and Nurse Abuse Check. The commenters noted that background checks, TB and drug testing are costly. Furthermore, some commenters recommended that certain felonies that show up on background checks should be taken into consideration and allowed after a passing time frame. For example: drug charges cannot be within the last 5 years.	All individuals hired to care for PDS participants undergo training. The updates allow PDS employers to determine the certifications, such as CPR or First Aid, a PDS employee needs. The updates are designed to allow PDS employers more flexibility in the person-centered planning process. DMS is currently working with the Department for Public Health to review TB screening requirements and will provide more information in future communications. DMS is aware of the cost of pre-employment screenings for PDS workers and is working with stakeholders, including our PDS Advisory Subpanel, to identify funding sources to best address this need.	Background Investigation Appendix C-2-b: Abuse Registry Screening	
PDS36	Advocate	**PDS Model Expansion:** One commenter recommend DMS increase funding and hours for PDS participants who require a higher level of care. The commenter thinks the current system is exclusive because of the lack of funding.	DMS does not intend to change reimbursement rates during phase one of 1915(c) HCBS waiver redesign. The Rate Methodology Study will take into account any new service requirements that would significantly impact the use of staff time and incur additional costs for providers. DMS will determine how to adjust reimbursement rates in phase two of waiver redesign following the	Appendix C: Participant Services (Provider Qualifications)	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
			completion of the 1915(c) HCBS Rate Methodology Study. All rate changes will be subject to waiver budget neutrality requirements.		
PDS37		**PDS Employee Qualifications:** One commenter recommended lowering the minimum age requirement for PDS workers.	At this time, DMS is not considering lowering the minimum age requirement for PDS workers.	Appendix C-1/C-3 Provider Specifications (Qualified Participant Approved Provider)	
PDS38	Providers	**Self-Assessment:** Commenters noted case managers' responsibility to administer a self-assessment. The commenters believed the "self-assessment" would replace the level of care assessment and inquired as to what the case manager's role will be in administering the level of care assessment.	The Self-Assessment Tool is a non-clinical assessment of the knowledge, skills, and abilities a participant, or their representative, has before selecting the PDS service delivery model. It is designed to identify training needs and guide the participant and the case manager in developing the supports a participant may need to self-direct their services. The level of care document (also known as the functional assessment) identifies the clinical support needs of the participant, such as activities of daily living, among others. The level of care assessment (functional assessment) will continue to be a part of the waiver enrollment process, regardless of the service delivery model (traditional or participant-directed). The type of functional assessor each waiver uses has not been changed.	Appendix E-1-e. Information Furnished to the Participant	

Ref #.	Commenter Type	Comment	DMS Response	Related Waiver Section	Change to Waiver
PDS39	Caregiver	**Freedom of Choice - FMA:** One commenter encouraged DMS to widen the availability of Financial Management Agencies, so participants would have freedom to choose. The commenter suggested that the waivers include the option for Participants to be able go outside of their geographical area to secure a Financial Management Agency, assuming the outside agency is willing to accept and work with the Participant.	DMS is not expanding FMA services during phase one of 1915(c) HCBS waiver redesign. DMS will determine if it will make any updates in phase two of waiver redesign following the completion of the 1915(c) HCBS Rate Methodology Study. All changes will be subject to waiver budget neutrality requirements.	Appendix C: Participant Services	
PDS40	Provider	**College of Direct Supports:** The commenters urged DMS to continue using the College of Direct Support for purposes of enhancing competency and continuity of care.	DMS is reviewing and evaluating training tools available to participants and their PDS employees. All existing training methods will be included in the evaluation.		
PDS41	Provider	**Blended Services:** One commenter requested the ability to split a service's allotted hours between traditional and PDS (i.e. blended services). For example, the commenter wants to split Community Living Support hours between PDS and traditional services. But instead, if the commenter uses an agency for Community Living Support hours we are not allowed to use any Community Living Support hours for PDS provider.	DMS currently allows participants to split their service hours between traditional and PDS providers in a service delivery method known as “blended services.” The waiver participant, along with his or her case manager/PDCM and the person-centered team, should work together during the development of the PCSP to determine if the traditional, PDS, or blended service delivery option best suits the participant’s needs.	Appendix D: Person-Centered Planning and Service Delivery Appendix E: Participant Direction of Services	